Barriers to Occupational Health Services for Low-Wage Workers in California

A Report to the Commission on Health and Safety and Workers' Compensation, California Department of Industrial Relations

Nanette Lashuay, MA, Assistant Clinical Professor, University of California, San Francisco, School of Nursing, Department of Community Health Systems

Robert Harrison, MD, MPH; Clinical Professor, University of California, San Francisco, Division of Occupational and Environmental Medicine

April 2006

ACKNOWLEDGEMENTS

Interview and Focus Group Participants

We would particularly like to thank the workers, business organizations and associations, community organizations, business representatives and experts in the field who participated in interviews or assisted us in gathering information for this project. A partial list of contributors is included in Appendix B.

Commission on Health and Safety and Workers' Compensation

Our special thanks to the Commission on Health and Safety and Workers' Compensation Executive for their support to this project. We are especially grateful to Executive Officer, Christine Baker, Research Program Specialist, Irina Nemirovsky, and Selma Meyerowitz for their assistance, thoughtful review and editorial suggestions.

Low-wage Workers Project Advisory Committee We are grateful to the members of the advisory committee who offered us advice and assistance in the development of this project. See Appendix A for a list of appointed committee members.

We also gratefully acknowledge the following individuals for their support and assistance on this project:

Industrial Hygienist
Jacqueline Chan, MPH, Public Health Institute

Project Assistants
Laura Perez, Nyonnoweh Greene and Liz Appel
UCSF Community Occupational Health Project

Focus Group and Interview Arrangements
Javier Amaro, Megan Bui, Fritz Conle , Alejandra Domenzain, Ken Fong, Lilia Garcia, Sister Marilyn Lacey, Mayron Payes, Peggy Sugarman and Juliann Sum

Interpreting and Translation
Maria Socorro Corona, Judy Gonzalez, Laura Perez and Victoria Yebra

Editorial Review and Report Production
Jason Alexander, Henning Chu, Barbara Materna and Patrice Sutton

Photographs
Kathy Ahoy, David Bacon, Jackie Chan, Rupali Das, Ira Janowitz, Nan Lashuay and Laura Perez

TABLE OF CONTENTS

LIST OF FIGURES AND TABLES

List of Tables

List of Figures

BARRIERS TO OCCUPATIONAL HEALTH SERVICES FOR LOW-WAGE WORKERS IN CALIFORNIA

-EXECUTIVE SUMMARY-

Workers may have the right to safe working condition and the right to workers' compensation but they don't have the reality of it. I've seen about 120 or 130 workers injured and about 95% of the time the system doesn't work and nothing is paid to the worker. He doesn't even get help with medical care. **Community-Based Organization**

Fear of injury is something we have in our hearts all the time. We can feel the damage in our bodies. We are afraid to ask for better working conditions because we will get fired. We sacrifice ourselves for our families. **Day Laborer**

CHAPTER 1. BACKGROUND

Frequently absent from debates on workers' compensation is a discussion of prevention efforts by industry and the critical role prevention could play in reducing workers' compensation expenditures and, most importantly, worker pain and disability. Also overlooked has been the dilemma of low-wage, mostly immigrant, workers who do some of the most hazardous jobs in our society and who face substantial, often systemic barriers in their attempts to obtain medical treatment and workers' compensation benefits when they are injured.

Exclusion of low-wage workers from the workers' compensation system often means that the burden of medical care and disability is shifted to their families and to the taxpayers who fund the public and community-based health care services these workers use. This form of cost-shifting also presents serious problems for legitimate businesses in California that must compete against firms that can easily underbid them because they provide no employee benefits, invest little or nothing in injury prevention, and often violate basic labor laws and health and safety regulations.

Scope of the Report. Many businesses that employ low-wage workers do not participate in the abuses described in this report and are often themselves victims of such practices because they struggle to compete against firms that do not abide by the law. This report looks at those businesses that do not abide by the law. It covers three interrelated topics: (1) low-wage workers and the issues they face in accessing the workers' compensation system, (2) prevention efforts in a typical industry that employs low-wage workers; and, (3) the involvement of community health clinics in providing care to injured workers. Recommendations for introducing systemic changes through prevention efforts and increasing access to medical treatment and workers' compensation benefits for low-wage workers are presented.

Methodology. Findings are based on a series of seven focus groups with workers, extensive interviews with community-based organizations that serve the low-wage worker populations, site visits and interviews with industry representatives and business owners in the building

maintenance industry and a survey of community clinics. An extensive review of the literature and existing data was also completed.

Limitations. Accurate quantitative data do not exist on this topic. Consequently, this report is a qualitative exploration aimed at identifying the key issues and providing insight into the employment and socio-cultural dynamics that contribute to the health and safety access problems of low-wage workers. As such, this report focuses on identifying problem areas. While there was surprisingly strong consensus about the nature of these problems, it should be noted that this report is not an assessment of prevalence; as stated above, not all businesses that employ low-wage workers participate in the abuses described in this report. An additional caveat is that Senate Bill (SB) 899 was passed during the course of this study and the bill's provisions were not yet in effect when the research was conducted.

CHAPTER 2: LOW-WAGE WORKERS IN CALIFORNIA

Officially, over 3.7 million Californians are employed in occupations whose median wage is less than $10 an hour, the definition used in this report to classify workers as "low-wage." Perhaps as many as two million more may be employed in California's expanding underground economy. The majority of low-wage workers are nonwhite and immigrants. Typical low-wage occupations in California include restaurant and food service employees, health aides, cashiers, janitors, hotel cleaners, assemblers, security guards, farm laborers, retail clerks and sewing machine operators, among others.

Overall, nearly two-thirds of the 25 leading occupations reporting non-fatal work-related injuries and illnesses are low-wage occupations. Heavy physical exertion, exposure to toxic substances and blood borne pathogens, repetitive motions performed bent over or in awkward postures for hours and slips, falls and other accidents are some of the common risk factors.

Underreporting. A recent U.C. Davis study concluded that the Bureau of Labor Statistics reporting system overlooked between 33% and 69% of all injuries. Various studies in other states have found that from 9% to 45% of workers do not report injuries or file legitimate claims for workers' compensation. Based on the interviews and research for this report, underreporting is endemic among certain groups of low-wage workers. Major risk factors include:

- **Employment in the informal or "underground" economy.** Over 2 million workers may be employed by illegally operated businesses in California. The underground economy, its growth spurred in part by the popularity of subcontracting, produces between $60 billion and $140 billion in goods and services annually. Wage and hour violations, hazardous conditions and worker intimidation are common. Limited enforcement, lack of workers' compensation coverage, payment by piece rate, take-home work and, occasionally, human trafficking are problems which contribute to injuries and underreporting in this sector.
- **Employment in small businesses.** Small businesses employ the majority of low-wage workers. Compliance with complex and sometimes costly training, prevention and legal requirements can be exceptionally difficult for small-scale enterprises with limited resources. New businesses and immigrant-owned businesses may be particularly at risk.
- **Immigrant status (especially undocumented immigrant)**. More than 26% of California residents are immigrants, a percentage over two times higher than the rest of the United States. An estimated 2.7 million residents, approximately 6.5% of the state's population,

are undocumented. Limited English language and literacy skills (coupled with low acculturation levels) are major barriers for many immigrants.

- **Lack of health insurance, sick leave and other employment benefits**. No health insurance, lack of access to health care services and the inability to take time off work to seek care or recover from illnesses and injuries were repeatedly cited as reasons why workers did not seek care for chronic—and sometimes even acute—occupational injuries and illnesses. Nationally, 76% of low-wage workers have no paid sick leave. Based on a recent UCLA study, California workers employed in the smallest firms (42.5%), low-income workers (48.9%), and undocumented workers (50.4%) were the least likely groups to work in firms that offered health insurance.
- **Lack of unionization.** Union representation is far less frequent among foreign-born and low-wage workers in California. The great majority of workers interviewed in this study were non-union.

CHAPTER 3: FROM THE WORKERS' PERSPECTIVE: BARRIERS TO REPORTING INJURIES AND ILLNESSES

Low-wage workers face multiple barriers to filing workers' compensation claims when they are injured on the job. The findings from the focus groups and interviews are presented in the respondents own words since this best conveys the nature and scope of the problem. Common themes mentioned in the interviews and focus groups with workers included:

- **Fear of Retaliation.** Fear of job loss and other retaliation for filing workers' compensation claims or for complaining about unsafe conditions were the most frequent concerns mentioned by workers. Actual physical abuse of workers in order to push them to work harder or because they had complained, while less common, was also reported.
- **Blacklisting.** Fears of blacklisting or of ostracism by their fellow workers for potentially jeopardizing jobs are other variations of the often overt pressure on workers not to report injuries or speak up in the workplace. While we were unable to ascertain how much blacklisting actually occurs, the belief that it does exist is widespread and contributes to the atmosphere of intimidation.
- **Firing.** While in some cases these fears may be misguided or exaggerated, all too often they were a realistic appraisal of the workplace situation. Several supervisors reported that firing employees who complained or filed workers' compensation claims was company policy.
- **Underreporting of Chronic and Non-acute Injuries.** Most claims that ultimately do get filed are from workers who have already been fired or who have acute injuries that require emergency care. Chronic pain and non-acute injuries were only infrequently reported to employers. In some cases, this was due to lack of understanding that these conditions are work-related and serious enough to report.
- **Normalization of Pain and Injury.** For many low-wage workers, sub-acute injury and pain are so common that they are considered a normal part of the job.
- **Working Despite Injuries.** Lack of insurance or sick leave means loss of much needed pay. Interviewees described continuing to work despite nearly unendurable pain because they believed they had no alternatives. Others reported constant worry about health problems and chemical exposure.

- **Perceived Employer Indifference to Worker Injury.** The widespread belief that employers did not care about injuries created an atmosphere that contributed not only to underreporting, but to worker unwillingness to notify employers of health and safety problems at the job site. Many believed that employers would consider them 'complainers' or worse if they raised such concerns.

Treatment of Injured Workers. Workers who had been injured on the job reported numerous problems in getting adequate care or compensation benefits for their injuries and illnesses. These included being sent to company doctors who trivialized their injuries, being dropped at emergency room or left without care, given only token medical treatment and being forced to work despite injuries. Some reported attempts to dissuade them from filing for workers' compensation Referring workers to primary care providers or attempting to make them pay for their own medical care when they were injured were also reported.

Treatment of Workers Who Filed Claims. When workers actually tried to file workers' compensation claims, they often faced overwhelming barriers in the workplace. Some accused employers of deceptive practices including claiming that they were not actually their employees or "losing" injury and illness reports. In other cases, legitimate claims were not processed because the documentation was not available. Some workers claimed they were misled by their employers and the statute of limitation expired before the claims could be processed. While such problems were reported by workers in every industry we interviewed, day laborers and construction helpers appeared to be the victims of some of the worst abuses.

System Barriers. Lack of knowledge about workers' compensation benefits, uninsured employers, language barriers and the complexity of the process were major problems preventing many workers from filing or pursuing claims. In almost all cases, workers were only able to successfully pursue claims when they had legal support, which was often not easily available to them.

CHAPTER 4: HEALTH AND SAFETY IN THE JANITORIAL INDUSTRY

Many of the occupational injuries and illnesses experienced by low-wage workers are preventable. Simple measures-- proper procedures, adequate training, the use of safe equipment and products —are often all that is necessary to avert serious injury and illness. Despite this, prevention efforts are minimal, if not entirely lacking, in many businesses that employ low-wage workers.

Intense Competition. The increasing practice of outsourcing janitorial services, coupled with the ease of starting a janitorial service, has resulted in the proliferation of many small companies and intense competition for contracts. Many of these small companies operate without business licenses or insurance and often violate wage and hour laws and health and safety requirements. With such artificially lower overhead costs, they are able to underbid legitimate building maintenance firms. As a result, cost-cutting is a hallmark of the industry and prevention efforts suffer.

Site Visit Findings. As discussed in Chapter 4, a Department of Health Services contract industrial hygienist visited ten Bay Area janitorial companies to identify risk factors and to assess prevention practices. Heavy, fast-paced workloads and numerous chemical exposure, ergonomic, safety and other risk factors were observed during the site visits. Prevention programs at these sites were generally poor or absent. All but one company lacked an injury and illness prevention

programs (required by California law). Hazard communication and training efforts were generally inadequate, inconsistent and infrequent.

Employers cited a variety of barriers to implementing health and safety programs for their workforces. These included time limitations, high worker turnover which made cohesive training difficult, language barriers, difficulty getting workers to follow instructions provided by training, no space available for training (since many employers have no offices), not being aware that health and safety problems exist, not having financial resources and not knowing where to go for help.

CHAPTER 5: ACCESS TO MEDICAL CARE

Access to appropriate medical care was one of the most important issues raised by workers and agency staff interviewed. Most low-wage and uninsured workers currently obtain their health care at public and nonprofit community clinics, which generally have the language skills and cultural competency skills needed to serve them effectively. Interviews were conducted with a small sample of these facilities to assess knowledge and awareness of occupational health issues and practices with regard to workers' compensation. Slightly over half of the facilities interviewed reported that they routinely screened for work-related causes, but only 27% had treatment guidelines for occupational injuries or illnesses or a protocol for workers' compensation cases. Many reported not filing workers' compensation reports because of worker fear of retaliation or because the paperwork and system were too complex. Clinician training in occupational health issues was limited, though interest in more training was high.

Chapter 6: Recommendations

There was substantial consensus about what needs to be done among respondents to this study and in recent reports published by various concerned groups and other researchers. This report focuses on a "short list" of what appear to be the most pertinent and feasible recommendations, which include:

Increase inspections of health and safety conditions in target industries. Study respondents and other observers generally consider increased enforcement of target industries to be the most important remedy the state could consider adopting to improve conditions for low-wage workers. The highest priority could be given to increasing the number of bilingual inspectors, revitalizing the state's task forces on underground industries, and increasing a program of unannounced inspections at low-wage workplaces.

Explore increasing the capacity of local governments to participate in compliance efforts. Pilot projects could be funded to develop innovative enforcement and outreach strategies at the local level and to explore the possibilities for enhancing local inspection efforts and the use of legal remedies by district attorneys and other local regulators to address health and safety compliance at the local level.

Promote efforts by community-based organizations to assist workers with filing claims, obtaining medical services and negotiating the workers' compensation claim process. Models exist of community-based organizations that effectively help workers file claims, report problems, access occupational health care and negotiate the workers' compensation process.

Encourage advisory boards to include representation from community-based organizations.

Encourage development of an outreach campaign to communicate worker rights, responsibilities and resources in vulnerable communities. As is evident from the success of tobacco education and other public health programs, social marketing campaigns can have an enormous impact. They save lives and save money. Current outreach and education efforts in occupational health are sporadic and rely heavily on written materials, which often do not reach their intended audience or serve the needs of low-wage workers. More innovative, creative, and coordinated approaches to outreach are needed. The use of media—especially ethnic media—to reach low-wage populations is one important and not necessarily costly strategy.

Provide understandable health and safety and workers' compensation information in the language and at the literacy level appropriate for low-wage workers.

Establish an ad hoc committee to review legal remedies and fines and penalties for health and safety violations. Effective legal remedies do not exist for repeated violations of health and safety standards or instances in which large groups of workers are adversely affected by company practices (e.g., long-term exposure to toxic chemicals.) Many of the fines and penalties for labor and health and safety violations were established years ago and do not act as effective deterrents. Statutes of limitations also make it difficult to pursue claims where medical problems from workplace exposures (e.g., cancers) do not show up until later years or when information about workers' compensation benefits was not provided to workers by their employers.

Provide web-based public access to workers' compensation insurance coverage information for California businesses. California should follow the lead of other states, notably Texas, that have developed publicly-accessible electronic database systems that quickly and easily provides this information.

Explore the possibility of creating a safety net for the most vulnerable workers by encouraging pilot projects to provide limited, confidential access to occupational health care to low-wage workers in target industries. Several free or low-cost worker-oriented clinics have been started in the last few years to respond to the problem of lack of access for low-wage workers. There are no funding streams available to support these clinics and at the same time allow them to provide care to patients who are risk of retaliation or to patients whose workplace injuries are not covered under workers' compensation insurance. Pilot projects should be developed to gather data on the costs and impacts of providing medical care to workers in designated industries where a high risk of retaliation exists.

Strengthen the ability of public and community health clinics to provide occupational health care for low-wage workers. Training in occupational health care and in the laws and regulations governing workers' compensation should be provided on an ongoing basis to community and public health clinics. Regulations that mandate the inclusion of qualified community and public health clinics on insurer-preferred provider lists for employers with low-wage workforces and efforts should be adopted to assist them in developing individual or shared billing services.

Determine if the medical treatment provided under SB 899 works effectively and efficiently for low-wage workers. One of the most consistent complaints from workers in the

focus groups was about inadequate care received from employer-designated doctors. SB 899 gives even greater control to employers over the choice of health care providers and greatly limits employees' ability to seek care elsewhere if they are dissatisfied. Analysis of this process should take into account the special needs and circumstances of low-wage workers.

Enhance Prevention Efforts in Low-wage Industries. The Working Immigrant Safety and Health Coalition provided a useful list of recommendations which would enhance prevention efforts in low-wage industries, including: (a) disseminating information about existing solutions for serious hazards in these industries; (b) providing incentives for employers including tax credits, grants and insurance rebates for implementing approved health and safety measures; and (c) supporting research on new workplace solutions.

Explore the feasibility of implementing a regular reporting mechanism beyond the Workers' Compensation Information system (WCIS) and the annual survey by the Department of Labor Statistics and Research (DLSR) of the Bureau of Labor Statistics, and a study of surveillance efforts and recommended improvements for tracking injuries and illnesses among low-wage workers. Without data to identify risk factors and track improvements, clear goals cannot be set for resolving the immediate problems identified in this and other reports, including recommendations for more useful and accessible performance data on inspections and other DIR programs.

Provide publicly accessible county-level data on injuries to facilitate local involvement. Regular reporting should be made publicly available and cover occupational illnesses and injuries, claims information, Cal-OSHA inspections, emergency room cases and other available data to assist local surveillance efforts.

CHAPTER 1

INTRODUCTION

BACKGROUND

Over the last decade and a half, the debate in California over workers' compensation insurance has focused almost exclusively on how to reduce steeply rising premiums. The impact of these soaring costs on California businesses has been widely and justifiably decried. In 2004, businesses in California paid nearly twice the national average for insurance coverage. Diverse explanations offered for these unusually high rates, include the failure of California's rate deregulation scheme, a cumbersome process for administering claims, excessive utilization of services (often attributed to a litigation-oriented system), insufficient emphasis on return-to-work programs for injured workers, and inconsistent methods for determining and compensating permanently disabled workers. The most recent of the several reform initiatives the state has enacted since 1989, Senate Bill (SB) 899 (Poochigian, 4/19/04), is aimed at curbing insurance costs by increasing controls on medical expenses, reducing services and disability benefits, and discouraging litigation.

Conspicuously absent from this debate is a discussion of prevention efforts by industry and the critical role prevention could play in reducing workers' compensation expenditures and, most importantly, worker pain and disability. Also overlooked has been the dilemma of low-wage, mostly immigrant workers who do some of the most hazardous jobs in our society and who face substantial, often systemic barriers in their attempts to obtain medical treatment and workers' compensation benefits when they are injured.

Exclusion of low-wage workers from the workers' compensation system often means that the burden of medical care and disability is shifted to their families and to the taxpayers who fund the public and community-based health care services these workers use. This form of cost-shifting also presents serious problems for legitimate businesses in California who must compete against firms that can easily underbid them because they provide no employee

benefits, invest little or nothing in injury prevention, and often violate basic labor laws and health and safety regulations.

SCOPE OF THE REPORT

This report focuses on low-wage workers, their occupational injuries and illnesses, and the problems they encounter in obtaining appropriate medical care and the benefits to which they are entitled through the workers' compensation system. The report examines the current state of prevention efforts in an industry that employs sizeable numbers of low-wage workers: the building maintenance industry. The report also discusses the role of the community health care system in providing care to these workers for their injuries. Recommendations for introducing systemic changes through prevention efforts and for increasing access to medical treatment and workers' compensation benefits for low-wage workers appear in Chapter 6 of the report.

METHODOLOGY

This report covers three interrelated topics: (1) low-wage workers and the issues they face in accessing the workers' compensation system; (2) prevention efforts in a typical industry that employs low-wage workers; and (3) the involvement of community health clinics in providing care to injured workers.

Findings are based on data from the following sources:

- A series of seven focus groups, as well as individual interviews and onsite surveys, with low-wage workers representing a diverse range of occupations (e.g., janitors, garment workers, hotel housekeepers, restaurant workers, day laborers and farmworkers) and ethnicities (Latino, Chinese, Vietnamese, African and Middle Eastern). In all, 149 workers were interviewed.
- Interviews with 46 representatives from community-based organizations, unions, private attorneys, community legal clinics and public agencies that assist these workers.
- Interviews with 5 industry representatives and 22 business owners or managers and site visits to 10 building maintenance firms that were representatively selected to reflect this industry.

- Surveys and follow-up interviews with a random selection of 11 community clinics that serve immigrant and low-wage worker populations.
- An extensive review of existing literature and databases.

Procedures, consent forms, recruitment scripts, interview templates and questionnaires used in this study were reviewed and approved by the UCSF Committee on Human Research. No personal identifiers were used for workers interviewed for this report. Business owners and managers, agency staff, and other responders were given the option to respond anonymously or to have all or part of their comments treated as confidential. While the majority of respondents did not request anonymity, all quotations in this report (except those from previously published sources) are identified only by the type of agency or firm in order to protect the privacy of respondents who did not wish to be publicly identified.

STUDY LIMITATIONS

Accurate quantitative information about the health and safety problems of low-wage workers is very limited. In some industries, employment figures for low-wage workers are suspect, either due to lack of reporting or to the prevalence of nonstandard employment relationships (e.g., workers employed as independent contractors). In other cases, it is difficult to distinguish specific groups of workers since their labor may be variously categorized under the existing coding system (e.g., day laborers who can perform gardening chores one day and construction labor the next). Injury and illness data for these workers are even less reliable due to the underreporting problems that will be described in this report.

Given the existing lack of systems for collecting data about low-wage workers and the limited attention that has been paid to the access problems these workers face, a quantitative assessment is not possible. Instead, this report is intended to be a preliminary qualitative exploration whose purpose is to identify the key issues and provide insight into the employment and socio-cultural dynamics that contribute to the health and safety access problems of low-wage workers. This is a crucial first step towards future efforts to determine how best to capture accurate quantitative data about these workers.

The report focuses on the difficulties some low-wage workers encounter with prevention in their workplace and in obtaining access to appropriate occupational health care. There was

surprisingly strong consensus about the nature of these problems among the respondents. As will be discussed in Chapter 2, it should be noted that many businesses that employ low-wage workers do not participate in the abuses described in this report. Legitimate businesses are themselves victims of such practices because they often struggle to compete against firms that do not abide by the rules.

An additional and important caveat is that SB 899 was passed during the course of this study; however, most of the bill's provisions were not yet in effect. These provisions, particularly those dealing with access to medical care, are likely to have both substantial and unintended effects on low-wage workers. Future review will be necessary to understand the impact of this measure on access to workers' compensation benefits for low-wage workers.

Finally, information contained in this report is based on data gathered from the individuals and organizations interviewed and on the authors' analysis of these data. An advisory group appointed by the California Commission on Health and Safety and Workers' Compensation reviewed and made suggestions on the design of this study and the report. While the advisory group's comments have been taken into account in the preparation of this report, the findings, recommendations and conclusions remain the sole responsibility of the authors.

CHAPTER 2
LOW-WAGE WORKERS IN CALIFORNIA

In California, over 3.7 million workers are employed in occupations whose median wage is less than $10 an hour (see Table 1), the definition used in this report to classify workers as "low-wage."[1] This number includes only workers whose employment is officially counted by the California Employment Development Department. An undetermined number of other workers, perhaps as many as two million more, may be employed in California's burgeoning underground economy. Typical low-wage occupations in California include restaurant and food service employees, health aides, cashiers, janitors, hotel cleaners, assemblers, security guards, farm laborers, retail clerks and sewing machine operators, among others.

Compared to the overall statewide rate of white employment, the number of non-whites in these low-wage occupations is consistently and often substantially higher. Particularly striking is the percentage of nonwhites among garment workers (95%), agricultural workers (92%), electronic assemblers (87%), hotel room cleaners (82%), dishwashers (79%), janitors (78%) and cooks (77%).

In terms of age, 16-24 year-olds make up the majority of the working poor, while the largest percentage gain in the number of low-wage workers by age in recent years has been among those between the ages of 36-50.[2] In general, these older workers are at higher risk for occupational disabilities. Nearly two-thirds of low-wage workers are parents of children.[3] Both the loss of income and poor health due to job-related injury or illness affect the well-being of entire families.

Table 1. Low-Wage Workers in California

Low-Wage Workers Occupational Categories and Selected Occupations	2002 Employment Estimates (Low-wage workers only)[a]	Entry-Level Hourly Wage	50th Percentile (Median) Hourly Wage	Mean Annual Wage
Health Care Support Occupations	44,130	[b]	[b]	[b]
Home Health Aides	38,590	$7.72	$9.13	$20,437
Protective Service Occupations	138,430	[b]	[b]	[b]
Security Guards	132,170	$7.79	$9.23	$21,635
Food Preparation and Serving Occupations	1,114,870	$7.18	$7.98	$18,810
Cooks and Food Preparation Workers	285,500	$7.22	$7.74	$16,585
Waiters and Waitresses	213,970	$7.07	$7.30	$17,312
Building and Grounds Cleaning and Maintenance Occupations	464,610	$7.63	$9.58	$23,106
Janitors and Cleaners	203,960	$7.60	$9.46	$22,332
Maids and Housekeeping Cleaners	88,760	$7.40	$8.40	$18,705
Landscaping and Groundskeeping Workers	115,170	$7.74	$9.89	$23,418
Personal Care and Service Occupations	305,300	$7.43	$9.14	$24,101
Child Care Workers	40,800	$7.65	$9.23	$20,649
Sales and Related Occupations	846,410	[b]	[b]	[b]
Cashiers	361,970	$7.38	$8.51	$21,055
Retail Salespersons	424,590	$7.66	$9.20	$24,498
Farming, Fishing, and Forestry Occupations	174,570	$7.19	$7.54	$18,609
Farmworkers and Laborers	124,140	$7.15	$7.42	$16,785
Production Occupations	498,880	[b]	[b]	[b]
Team Assemblers	120,400	$7.75	$9.97	$23,122
Sewing Machine Operators	61,890	$7.23	$7.78	$17,699
Transportation and Material Moving Occupations	530,220	[b]	[b]	[b]
Laborers and Freight, Stock, and Material Movers	255,480	$7.56	$9.29	$21,732
Packers and Packagers, Hand	123,660	$7.24	$8.07	$18,699
Other	39,520	[b]	[b]	[b]
Total:	3,701,610	[b]	[b]	[b]

Source: California Employment Development Department Occupational Employment Survey, December 2003. Based on California 2003 wages and 2002 employment data for occupations using Standard Occupational Classifications. *a.* Total employment figures are only for low-wage occupations within each category. b. Income figures by category are reported only when the overall median income for all occupations in the category is $10 hour or less.

OCCUPATIONAL ILLNESSES AND INJURIES AMONG LOW-WAGE WORKERS

Many low-wage workers perform jobs that require considerable physical exertion and which frequently involve repetitive and often high-speed tasks. Packers and movers lift several tons of boxes and cumbersome objects during a single workday. Nursing aides and homecare workers regularly lift immobile patients, frequently without help. Sewing machine operators perform the same sewing tasks throughout the day, often repeating the same motion many thousands of times. Farm work can necessitate both heavy physical exertion and repetitive motions performed bent over or in awkward postures that must be maintained for hours.

Repetitive work at high speed is common in the garment industry. *Photo by Jackie Chan.*

Low-wage workers are routinely exposed to toxic chemicals on the job. Electronics assemblers, jewelry makers and other manufacturing employees may use highly toxic chemicals as part of the production process. Farmworkers are exposed to pesticides on the crops they pick, weed and prune. Janitors must apply toxic chemicals to strip floors or clean metal fixtures. Nail salon workers are exposed to both chemical solvents and glues, and risk infectious diseases from exposure to bloodborne pathogens. Carwash workers spend hours drenched in chemical-soaked water.

Accidents are also common. Day laborers working at construction tasks suffer serious falls, cuts and other injuries at unsafe work sites. Hotel workers, rushing to clean their quota of rooms, slip on wet bathtub ledges while trying to scrub hard-to-reach tiles. Dishwashers cut themselves on knives and slip on wet floors. Groundskeepers are injured while using power equipment.

Work-related fatalities. Some low-wage occupations are at high risk for work-related fatalities. In 2002, the occupational categories with the highest numbers of work-related fatalities in California were operators, fabricators and laborers (31.2%), followed by

precision production, craft and repair workers (18.4%) and farming, forestry and fishing workers (12.3%).[4] A nationwide study based on data from 1996-2001 found that farming, forestry and fishing had the highest ratio (5.45%) of occupational fatalities relative to all other occupations.[5] Transportation and material moving (4.99%), handlers, equipment cleaners, helpers and laborers (2.73%), construction trades (2.38%), and protective service workers (2.45%) all faced more than twice the risk of dying on the job according to this study.

Latino and foreign-born workers in California have a consistently higher fatality rate, primarily because of their employment in occupations and industries with inherently higher risks of fatal injuries. In 2001, 37% of the workers killed on the job in California were Latino, even though Latinos represented only 28% of the working population.[6] Nearly 3 out of every 10 workplace fatalities in California were incurred by foreign-born workers from 1996-2001, accounting for 20% of all fatalities among foreign-born workers in the United States and over one-third of all fatalities among foreign-born workers in agriculture, forestry and fishing.[7] Nationally, according to the same study, foreign-born workers had a somewhat higher relative risk of fatal injury (1.11) compared to native workers (0.99).

In 2001, 37% of the workers killed on the job in California were Latino, even though Latinos represented only 28% of the working population.

Non-fatal occupational injuries and illnesses. Low-wage occupations are also among the leading categories for non-fatal occupational injuries and illnesses in California. In 2001, occupations in private industry with the greatest number of reported non-fatal injuries and illnesses involving days away from work included truck drivers, laborers (non-construction), farmworkers, nursing aides, orderlies and attendants, janitors and cleaners and construction laborers. Overall, nearly two-thirds of the 25 occupations reporting non-fatal work-related injuries and illnesses are low-wage occupations.[8] Latinos reported 70,823 (36.2%) of the 195,500 cases of serious injuries and illnesses in the state, the most reported by any ethnic group that year.

The rate per 100 full-time workers presents a somewhat different picture. Construction and transportation are the leading industry sectors reporting non-fatal occupational injuries and illnesses per full-time worker.[9] Since rate data is only available by industry, it is not possible to distinguish rates for low-wage workers compared to other workers. Certain characteristically low-wage industries, such as women's apparel, report injury rates over three times lower than the state average. This finding is likely due to underreporting rather than the relative well-being of workers in that industry.[10]

Underreporting. Official reported injuries and illnesses figures clearly underestimate the actual numbers of occupational injuries and illnesses occurring among all workers and low-wage workers in particular. While no data specific to California are available, a recent study by UC Davis researchers concluded that the Bureau of Labor Statistics (BLS) reporting system overlooked between 33% and 69% of all injuries, some due to the excluded categories of government workers and the self-employed, as well as to underreporting. [11]

Various studies in other states have found that a high proportion of injured workers do not report injuries or file legitimate claims for workers' compensation benefits. Published rates of underreporting range from 9 to 45 percent, with diagnosis by a provider being a critical factor in increasing the rate of filing. A Maine study, for example, found that only 45% of patients diagnosed with carpal tunnel syndrome were receiving workers' compensation.[12] A random digit dial study of 3,200 workers in Connecticut found that only 10.6% of those with self-reported cases of upper-extremity muscular skeletal disorders (MSDs) had filed claims. [13] Perhaps of most significance is a 1995 Philadelphia study that found that about 10% of injuries at an inner-city emergency department serving mostly poor residents were coded as occupational.[14] In follow-up interviews, researchers discovered that about half of the injured workers had missed more than three days of work, and about 40% reported persistent health problems because of their injury. Despite the severity of their injuries, only about 25 percent of these predominately poor and minority workers in low-wage occupations received workers' compensation. The authors of the study argue that workers' compensation data are especially deficient in surveillance of poor working populations. They also point out that

costs properly belonging to employers are being shifted to other payors, such as publicly supported health care providers.

Predictors of underreporting among low-wage workers. Not all low-wage workers are equally at risk of occupational injuries and illnesses. Working conditions vary. Some jobs are inherently more dangerous than others. Nor are all low-wage workers equally at risk of exclusion from the workers' compensation system. This report attempts to identify the factors leading to underreporting among the most vulnerable workers in California's workforce. While quantitative estimates of underreporting are beyond the scope of this report, based on interviews with low-wage workers and the agencies that serve them, the most significant predictors of systematic underreporting of occupational injuries and illnesses among these workers appear to be:

- Employment in the informal or "underground" economy
- Employment in small businesses
- Immigrant status (especially undocumented immigrant)
- Limited English language and literacy skills (coupled with low acculturation levels)
- Lack of health insurance, sick leave and other employment benefits
- Lack of union representation
- Geographic factors (e.g., availability of occupational health services; concentration of industries, local law-enforcement practices).

These factors often overlap. For example, businesses that operate in the underground economy are most likely to be small. They are also frequent employers of undocumented or immigrant workers. However, problems of underreporting, inadequate prevention efforts and lack of access to occupational health services are not confined to small businesses or businesses that operate illegally. Large, reputable and sometimes well-known companies (e.g., in the hotel and the electronics industries) may also provide less-than-adequate conditions for their own lowest-paid employees or for the workers who provide services to them through subcontracting arrangements.

EMPLOYMENT IN THE INFORMAL OR UNDERGROUND ECONOMY

The California Employment Development Department (EDD) defines the underground economy as "those individuals and businesses that deal in cash and/or use other schemes to conceal their activities and their true tax liability from government licensing, regulatory, and taxing agencies."[15] Violations of minimum wage, overtime pay and labor standards, including those covering health and safety, are common among employers who operate in the underground economy.[16] In addition to denying workers the rights to which they are entitled, these businesses are among the least likely to offer worker benefits such as sick leave, vacation pay or health insurance.

According to the California Joint Enforcement Strike Force (JESF), established in 1993 to increase enforcement among businesses that intentionally disregard the law, this problem is thought to be most widespread in garment manufacturing, janitorial and building maintenance, agriculture, construction, automotive repair, landscape maintenance, restaurant and bars, car washes, bakeries and some small manufacturing industries.[17]

Size of the underground economy.

The underground economy in California is substantial. The dollar value of the goods and services produced by illegally operated businesses is estimated at between $60 billion and $140 billion annually.[18] For obvious reasons, actual figures are not available on the number of workers employed by these businesses. However, a recent study by the Los Angeles-based Economic Roundtable compared numerous data sources to arrive at an estimate of 15% of the total labor force or approximately 811,000 unreported employees in Los Angeles County alone. Although too many factors are involved to permit simple extrapolation, 15% of statewide employment would be approximately 2.6 million workers, a number that is roughly equivalent to the estimated number of undocumented workers in California.

The informal economy can range from casual street vendors to companies with numerous employees. *Photo: Nan Lashuay*

Nonpayment of payroll taxes or license fees is characteristic of businesses operating in California's underground economy. Lost taxes alone have been estimated at over $3 billion per year.[19] The authors of the Economic Roundtable report calculated that workers and the local economy in Los Angeles lost an additional $1.4 billion in individual federal Earned Income Tax Credits that they would have been eligible for had they been able to file.

Lack of workers' compensation insurance or insufficient coverage is also common among businesses operating in the underground economy. A 1998 California Commission on Health and Safety and Workers' Compensation (CHSWC) study estimated "conservatively" that approximately 9% of employers in the state were uninsured for workers' compensation.[20] They also determined that payments out of the Uninsured Employees Fund (UEF) during the preceding five years resulted in a net loss of over $100 million to the State's general fund.

The number of noncompliant employers may be rising as the cost of policies increase. According to the California Department of Insurance, employer fraud, ranging from underreporting of payroll by paying cash to employees, to misclassifying employees in order to secure a lower premium, is one of the fastest-growing problems in workers' compensation insurance.[21] The Economic Roundtable study calculated annual lost workers' compensation premiums for the estimated 811,000 Los Angeles jobs in the underground economy at nearly $10 million.[22] Adjusting for 2003 rates, lost premium payments would be over three times higher than this figure for that county alone.[23]

Subcontracting. Subcontracting is a common method by which ostensibly legitimate firms are able to lower their costs and shift the responsibility for compliance with labor, tax, and health and safety laws to small, often marginal sub-contractors whose compensation is often so minimal that compliance with these laws may be literally impossible. The economic stress on these subcontractors promotes the exploitation of workers and assures little attention to factors affecting their health and safety.

To help combat this problem, SB 179 (Alarcón), recently signed into law, requires parties entering into a contract with a construction, farm labor, garment or janitorial contractor to

ensure that these contracts provide sufficient funds for the contractor to comply with applicable state and federal laws regarding wages and working conditions.

Human Trafficking and Forced Labor.

There were about 120 people in the garment factory where Miguel worked, most from rural towns in the state of Puebla, Mexico. "The owner goes to these towns and loans people the money to go north and then exploits them in his factory. We worked from 6:30 a.m. to 8 p.m. without breaks, six days a week. The factory where we worked was filthy. There was paper and trash piled all over. Rats and cockroaches were everywhere. Some days we worked until 11pm and even sometimes on Sundays if the factory had an order that had to be finished. We were always paid the same amount--$350 a week. Never any extra for working more hours or on Sundays. Some of them [who were still repaying the 'loan' from the boss] took home only $100 per week." Most of the workers, according to Miguel, were very humble people who were afraid to complain and who didn't know this treatment was wrong. **Author interview with Los Angeles garment worker**

Government officials estimate that over 750,000 people have been trafficked into the United States for the purpose of forced labor during the past decade.[24] This number is growing by 18,000 to 20,000 victims annually, according to the most recent U.S. State Department report that describes this modern-day slavery and slave trading as the underside of globalization and one of the greatest human rights challenges of our times.[25] Trafficking is a lucrative activity for the trafficking rings, small gangs and loose criminal networks that smuggle workers into the country and enforce their conditions of servitude.[26] California and other Mexico border states, as well as New York and Florida, are the prime routes of entry for these workers. Workers predominantly come from China, Mexico, various Eastern European countries, South Korea, Thailand, Viet Nam, the Philippines, Brazil, Malaysia and elsewhere.[27]

Though instances of actual force and physical coercion are common, the majority of these individuals are lured to the United States by the promise of good jobs from recruiters who exploit the desperation of the poor in developing countries. [28] Victims frequently agree to pay exorbitant fees for the opportunity to work in the United States. They are then forced into exploitive working conditions when they arrive in the country to pay off these "debts" which can range upwards of $30,000-$40,000.[29]

Trafficking victims, most of them women, are primarily brought into the United States to work in the sex industry. Other victims become domestic workers in private households, operate sewing machines in garment sweatshops, work in restaurant kitchens or labor in agricultural settings. Common tactics employed by traffickers to keep these workers in conditions akin to slavery include: isolation, often involving actual imprisonment; violence or threats of violence; physical abuse and psychological intimidation; confiscation of immigration papers; and, threats of deportation or of reprisals against family members in their home countries if the workers try to escape. Most victims work long hours for little if any pay and are subject to dangerous working conditions and habitually dreadful living conditions.

Two of the most highly publicized cases led to the enactment of legislation designed to curb trafficking.[30] The first involved approximately 60 deaf and mute Mexican nationals who were forced to work selling trinkets on the streets in New York and the other, earlier case involved 72 Thai immigrants working 18-hour days in a Southern California garment factory under guard and behind barbed wire. The new U.S. trafficking law, The Victims of Trafficking and Violence Protection Act of 2000, offers substantial protections for victims. These protections include temporary visas and permanent resident status for persons who cooperate in prosecution efforts.[31] Community-based organizations and nonprofit legal groups have also been active in raising public consciousness about this issue by training law enforcement and others in how to recognize victims, providing support to former victims and occasionally participating in daring rescues. Despite these efforts and the new legal protections that make prosecutions more likely, trafficking remains an easy and profitable practice that is likely to persist in California for some time.

Wage and Hour Violations. Failure to pay the minimum wage, nonpayment of overtime hours and other violations of wage and hour laws are common among businesses in the underground economy. The most widespread strategy to avoid tax, labor and other laws is paying wages in cash. The accompanying lack of documentation makes it particularly difficult for workers to file wage and hour violations or to access health services under workers' compensation. Identifying workers as independent contractors rather than

employees is also a frequent strategy for avoiding taxes and legal requirements. A related twist is workers who are paid only in tips[32] or are not paid while they are "in training."

Determining the extent of these problems is not possible. Occasional compliance surveys conducted by the United States Department of Labor (DOL) in a few selected industries are the only data available. A 2000 DOL garment industry compliance survey, conducted in Los Angeles, the country's major garment manufacturing center, found that two-thirds of garment employers violated minimum wage and overtime laws.[33] A similar survey in the much smaller San Francisco Bay Area garment industry estimated overall compliance at 75%. A 1998 DOL survey in the grape industry found minimum wage violations among 20% of growers and over 50% of the farm labor contractors.[34] In addition, sweeps of other industries by various enforcement agencies regularly turn up significant violations.

Though this study did not focus on wage and hour violations per se, some of the workers interviewed reported their own experience with being paid less than minimum wage or not being denied overtime payments.

> *I work seven days a week. It has been four months since I've had even one single day off. I get paid $750 two times a month in cash. No, it is always the same. It doesn't matter how many hours I work. They say if I get sick, they will take it out of my pay.* ***Janitor***

> *I get paid $4.50 an hour. That's all. I can't survive. It's not enough for me to pay rent and buy food.* ***Restaurant Dishwasher***

Payment by Piece Rate. Payment by piece rate is a common source of minimum wage violations. It also frequently leads to self-exploitation when workers skip breaks and lunches, ignore injuries, and work at excessive speeds in order to earn extra income. Piecework pay is common in the garment industry and was reported by some of the agricultural workers, janitors and hotel housekeepers we interviewed. Assemblers in small manufacturing industries and order-pickers in warehouses are sometimes paid piece rates.

Workers are paid one cent for every three snaps they sew on a garment, which means they have to work at enormous speed just to make the minimum wage. That's over 2000 snaps an hour just to make minimum wage. **Community-based Organization**

Everybody works by piece rate. So you work harder because you make more money if you pick more. We are paid by piece rate. There are some people who are running they're working so fast. **Farmworker**

Take Home Work. Take-home work, though in most instances illegal in California, also results in payment of wages below the minimum level and, at times, violations of laws prohibiting child labor when whole families are involved in production efforts. It can also result in dangerous health and safety conditions and the introduction of toxic chemicals into the home environment. Though efforts have been made to curb this practice, take-home work continues in the electronics and garment industry among others.[35]

A garment worker's home. Take-home work can involve the participation of the whole family, including children. *Photo by Laura Perez.*

Other violations of wage and hour laws. Other commonly identified violations of wage and hour laws include not providing legally required lunch and break periods. Several workers we interviewed said that they were not allowed to take breaks and lunches; others described skipping or shortening their lunch and breaks in order to keep up with the workload. Such violations can have serious health and safety implications.

We don't get breaks and we only get a half hour lunch where I work. A lot of times, we take a shorter lunch to get the work done on time. The housemen have to restock the carts for us as well as do a lot of other work. Since they are so understaffed, they often don't get to eat until after their shift is over. **Hotel Cleaner**

The [garment] workers complain that their kidneys hurt because they aren't allowed to take bathroom breaks. **Community-based Organization**

Most of the workers interviewed said that they experienced constant pressure to work faster and work harder with little, if any, concern on the part of their employers about the impact on their health or safety. While workload per se is not covered under wage and hour laws, some workers reported having their pay docked if the quality of the work they produced failed to meet acceptable levels.

> *The companies don't want to let you work more than 8 hours and with those 8 hours, they move you and they want you to work so fast you're producing enough like you're working 10 or 11 hours.* **Farmworker**
>
> *The room has to be just perfect so we are pressured and pressured and pressured to not make one little mistake or else we get written up. I kill myself working because I do exactly what the management wants so I don't get in trouble.* **Hotel Cleaner**
>
> *If we don't clean the room just right, we don't get paid for cleaning that room.* ***Hotel Cleaner***

Enforcement Efforts. Investigators report that some of these businesses are particularly difficult to monitor because they operate at different job sites or may not have a stable permanent location (e.g., construction, agricultural contracting, and some janitorial businesses). Others (e.g., garment factories) reportedly close down at one location when threatened with inspections or legal actions and open up at a new location with a changed name.

While enforcement resources are far from sufficient to correct the abuses cited above, they have met with some success. During the five-year period ending in 2002, the Employment Development Department, which leads JESF, levied fines for over 55,000 unreported employees and nearly $1 billion in unreported wages discovered during audits in over 3,500 businesses. Other projects under the auspices of the JESF, including the Targeted Industry Partnership Program, which focuses on the garment and agricultural industries, have been

less active in recent years.[36] Most of the strike force efforts focus on wage and tax issues. Limited attention has been paid to health and safety issues.

EMPLOYMENT IN SMALL BUSINESSES

While most small businesses in California are legitimate and law-abiding, compliance with complex and sometimes costly training, prevention and legal requirements can be exceptionally difficult for small-scale enterprises with limited resources. Few are able to employ specialized health and safety or human resources staff. Many small business owners are unfamiliar with the complex requirements governing occupational health and safety. They often lack the specialized knowledge to ensure adequate prevention measures and cannot afford to hire consultants to advise them. For legitimate businesses operating in industries in which a significant number of their competitors fail to abide by legal requirements, profit margins may be especially slim and prevention measures the first to be overlooked.

Number and Size of Small Businesses in California. The vast majority of businesses operating in California are small. In 2002, the number of California businesses that employed one or more workers surpassed one million, a number more than double that of any other state.[37] According to California Employment Development Department reports, only 2% of the state's businesses have more than 100 employees while 95% have fewer than 50 employees. The largest category, firms with four or fewer employees, account for 65% of the state's businesses.

Table 2. Businesses by Size and Number of Workers

Size of Business	*0-4*	*5-9*	*10-19*	*20-49*	*50-99*	*100+*
Percent of Businesses	**64%**	**14%**	**10%**	**7%**	**3%**	**2%**
Percent of Workers	**6%**	**7%**	**9%**	**17%**	**14%**	**47%**

Source: California Employment Development Department, Labor Market Information, "California Size of Business Report, Table 1 Number of Businesses, Number of Employees and Third Quarter Payroll by Size of Business, State of California , Third Quarter, 2003 ."

Nevertheless, as shown in Table 2, the inverse is true when it comes to the total number of workers employed by these businesses. The smallest firms (64% of all businesses) employ only 6% of workers while the largest 2% of firms employ 47% of all workers. However, since these figures are based on data from companies that pay into the unemployment insurance program, they do not reflect the many businesses that operate in the underground economy. Given the size of California's underground economy and the likelihood that most underground employers are small in scale, the actual percentage of California workers employed in small businesses is likely to be substantially greater.

Small Businesses Predominate In Low-Wage Industries. In industries that typically employ low-wage workers, small businesses predominate. Table 3 shows the percentage of total employees by business size for selected industries that are major employers of low-wage workers. With the exception of crop production, more than two-thirds of the businesses in each of these industries employ fewer than 100 employees.

Not surprisingly, private household workers are almost entirely employed by businesses or individuals with fewer than four employees. Animal production, repair, and maintenance businesses and building construction companies also report comparatively high numbers of small-scale businesses. Detailed data were not available for industry subgroups such as landscape maintenance and automotive repair shops, but it is likely that many of the businesses in these industries are also small.

Table 3. Number of Employees by Business Size for Selected Industries

	Firm Size			
PCT of all workers employed:	0-4	5-19	20-99	All firms with less than 100 employees
All Industry	7%	16%	31%	53%
Crop Production	5%	17%	32%	53%
Animal Production	11%	42%	36%	90%
Construction, Buildings	12%	29%	35%	76%
Specialty Contractors	7%	24%	38%	69%
Apparel Manufacturing	4%	21%	43%	67%
Food/ Drinking Places	4%	23%	60%	86%
Repair and Maintenance	18%	42%	31%	91%
Private Households	97%	3%	0%	100%

Source: Based on California Employment Development Department, Labor Market Information, California Size of Business Report, Table 2B: Number of Employees by Size Category Classified by North American Industry Classification System (NAICS) for California, Third Quarter, 2003.

New Businesses in California. Compliance with regulations may be a particular problem for owners of new businesses, especially first-time business owners, who are confronted with a profusion of state, local and federal permit, licensing, tax, employment, environmental and health and safety requirements that regulate their operation. While California ranked only 13 nationally in the rate of new-employer firms started in 2002, the actual number of new-employer businesses (139,146) was more than 2.5 higher than the next leading state.[38] Overall, the number of businesses employing workers has increased by more than 33% in California since 1990.

Small Business Success and Failure Rates. Most businesses, including most small businesses, are profitable. In 1998, U.S. business owners reported a mean household income of $115,629 per household compared to $43,999 for non-business owners. [39] Though owners of smaller businesses and newer businesses reported considerably less income, their income levels were still substantially above that of non-business owners.

At the same time, economic failure is a reality for a sizeable subset of businesses. For 2002, California ranked 10th in the nation in business terminations, with nearly 16% of existing businesses closing during the year.[40] While popular estimates of new business failure rates have ranged as high as 70%, more carefully designed studies indicate that about half of all new businesses close within four years, though not always for reasons of financial failure. Larger-sized businesses and those with such resource indicators as having employees, sufficient starting capital, and an owner with at least a high school education correlate with survival.[41] For the businesses that fail or are at risk of failure, the precarious nature of their enterprises and the fact that some owners may be barely making survival wages themselves can contribute to the neglect of injury and illness prevention efforts.

Immigrant Employers. Foreign-born residents compared to US-born residents have reported a higher rate of self-employment. Asian immigrants (particularly Taiwanese and Korean) and European immigrants are more likely to be self-employed in comparison to their native-born counterparts, but the disparity holds true across all ethnic groups.[42]

Immigrant-owned businesses are frequently concentrated in business and personal services, eating and drinking places, retail trade, grocery stores, and some manufacturing enterprises. Certain ethnic or immigrant groups predominate in specific industry sectors (e.g., nail salons, garment manufacturing, and agricultural labor contracting).

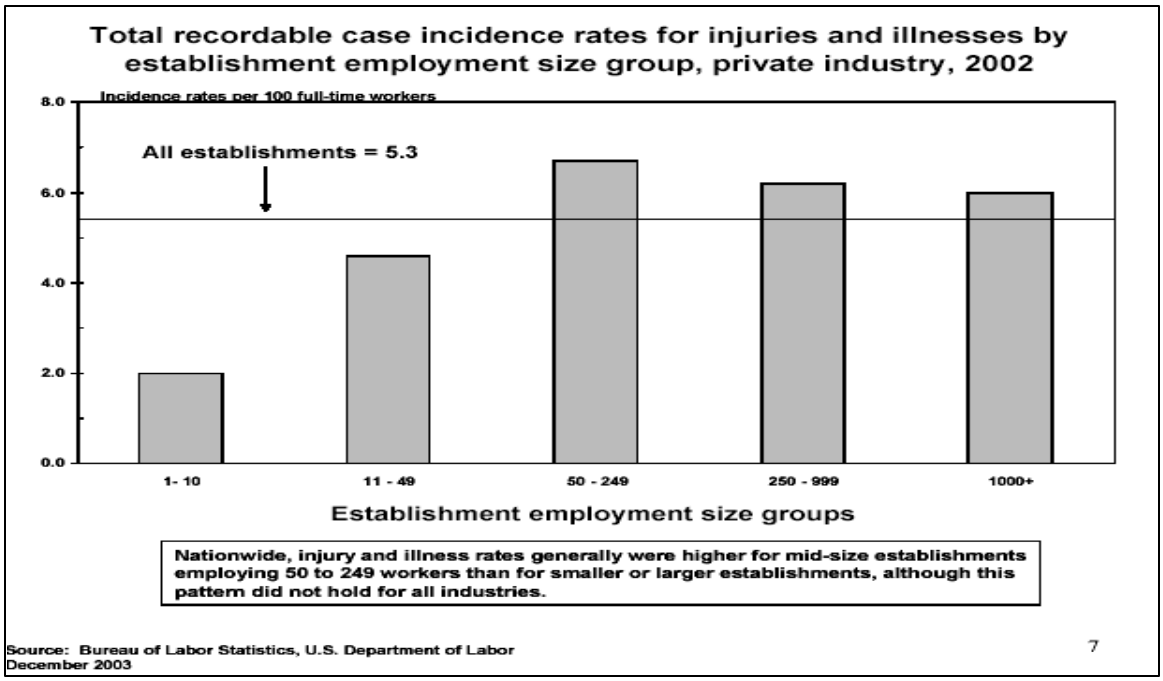
Ethnic neighborhoods or communities are often locations of choice for business owners who do not speak English fluently. For at least some of these employers, lack of English skills, limited familiarity with reporting and legal requirements and different cultural practices in the way businesses are conducted may impede compliance with health and safety standards.

Injuries and Illnesses Reporting Among Small Businesses. Historically, small businesses have reported far fewer occupational injuries and illnesses than large businesses. According to the most recent statistics from the Bureau of Labor Statistics, the national reported incidence rate in 2002 was only 2.0 cases per 100 employees for firms with 10 or fewer employees and 4.6 cases for firms with between 11 and 49 employees. As

shown in the graph below, medium-sized and larger businesses reported rates in excess of 6 cases per hundred employees.[43]

Various researchers have found that low incidence rates for small businesses may be misleading. Michigan researchers, for example, found that none of several analyses they conducted could explain lower injury rates for small establishments, leaving underreporting as a substantial possibility for explaining the discrepancy.[44] An earlier study of OSHA data found that death rates declined sharply with establishment size.[45] Other studies, based on clinical data and surveys of employees, have found much higher than anticipated numbers of injuries and illnesses among small businesses in specific industries. [46,47]

Figure 1.



Lack of Coverage and High Premium Rates. One reason for underreporting is that small businesses may be less likely to be fully covered by workers' compensation insurance. A recent pilot study conducted by the Commission on Health and Safety and Workers' compensation found that 9.6% of restaurant and bars, 19.8% of auto and truck repair businesses and 15% of all new businesses were uninsured, all categories in which small employers predominate.[48] New employers and industries in the two target categories were included in the pilot study because of their disproportionate demand on the

unemployment insurance fund, which covers claims when the employer does not have insurance.

"When the choice is between paying workers' compensation and the continued survival of the business, you know what the business will have to choose."

Small employers are particularly affected by rate increases for workers' compensation insurance. Some of the small business owners interviewed during this study stated that workers' compensation premiums are so high that many small businesses may be forced to drop the insurance. As we were told by one owner, "When the choice is between paying workers' compensation and the continued survival of the business, you know what the business will have to choose."

Since rates are based, to some extent, on claims history, there is a built-in incentive to reduce injury and illness rates, either through prevention efforts or through discouraging reporting. Employers participating in group insurance plans also occasionally face peer pressure to keep reporting rates down since fewer claims can result in lower premiums or rebates for the member businesses.

Lack of Familiarity Can Result in Reporting Problems. Lack of familiarity with the workers' compensation process (e.g., which forms to fill out when an injury occurs) or lack of understanding of what is covered by workers' compensation (e.g., illnesses and chronic conditions as well as acute injuries) can result in unintentional violations, particularly among small employers who may rarely have occasion to interact with the system. However, as we will discuss in Chapter 3, barriers to filing claims are not always unintentional. Misinformation, apparent efforts at deterrence, and the creation of procedural difficulties are among the most significant problems reported by workers attempting to file legitimate workers' compensation claims.

Size May Affect Compliance with Health and Safety Regulations. Small businesses may also have a difficult time complying with complex regulations and health and safety requirements. Many of these regulations appear to have been written with larger

businesses in mind. Small businesses rarely have the human resources departments or staff devoted to health and safety to guide them through these processes. They are also less likely to be unionized and thus unable to avail themselves of industry-wide union resources for safeguarding health and safety. Some of these regulations, particularly those dealing with chemical or other exposures (e.g., asbestos) may require the services of consultants or specialized testing which can be costly expenses for small business to absorb.

The sheer volume of new and existing businesses in California makes keeping small businesses informed of laws and regulations and carrying out compliance measures an enormous challenge for regulatory agencies. While regulations and useful health and safety information is regularly published and made available on state and federal government websites, active outreach to these businesses is limited. Outreach efforts typically include occasional mailings inserted in California Employment Development Department (EDD) quarterly newsletters, distribution of materials to chambers of commerce, business associations and other community-based organizations, and participation at small business fairs and other events. Such techniques are unlikely to keep the majority of small employers adequately informed, especially those with limited or no literacy in English.

Worksite Inspections Are Rare Among Small Businesses. Annual California Department of Occupational Safety and Health Inspections (Cal/OSHA) number fewer than 10,000 a year, nearly two-thirds of which were targeted at the construction industry. For businesses that are not in the construction or other specifically targeted industries, the odds of inspection are extremely rare. Given the state's current staffing, the AFL-CIO has calculated that it would take 109 years for Cal/OSHA to inspect each workplace in California at least once.[49] The threat of inspections, however, does appear to have a deterrent effect, particularly in industries where highly publicized task forces combining state and local labor, health, and tax agencies have been active. In a number of cases, announced inspections have resulted in businesses temporarily closing or relocating to avoid inspectors.

PROFILE: CAR WASH WORKERS

Photo by Nan Lashuay

"Our first undercover worker gets hired at Huntington Park Carwash. The manager doesn't have him fill out an application. He just hands our guy a company T-shirt and puts him to work. Scrubbing, polishing, down on his knees, in the sun for 10 hours a day. 'It's very difficult. It looks like it's easy but not it's easy,' says our undercover worker. At the end of the workday, the manager hands our guy his day's pay, an envelope with $25. That's just $2.50 an hour. He makes about another $2 an hour in tips, still far below the minimum wage, and by law, tips can't be included as part of a worker's wage." - Team 4 Reports, "Dirty Secrets at the Carwash," NBC4TV, Los Angeles, May 16, 2003[50]

The industry. According to the International Car Wash Association, small business owners run nearly 90% of car washes. Many car washes are "detailing" shops that employ a handful of workers to individually clean and service cars. Others are self-service operations--often attached to gas stations—that employ few or no additional workers. The high-volume businesses in this industry tend to be "full-service" car washes that service up to 700 or more cars per weekend day and 300-500 cars per weekday. At these facilities, conveyor belts move vehicles through automated tunnels fitted with brushes, high-pressure sprayers that dispense water, soap and wax, and air blowers that partially dry the vehicles before they exit the tunnel. In California, there are hundreds of these businesses, many of which employ up to 75 workers per day.

The workers. Accurate employment figures do not exist for this industry. The Western Carwash Association estimates that the industry employs over 100,000 people in California.[51] The majority of car wash workers are Latino immigrants who speak little English and who often lack authorization to work. Bureau of Labor Statistics data for California show an average reported pay rate of $297 per week for these workers in 2002, but less than minimum wage pay is common. Many workers receive only a share of tips for their services.

As noted in Assembly Bill 1688 (Goldberg), the industry is "plagued with labor law violations, including minimum wage, overtime, and rest and meal period violations." This legislation, signed into law in October 2003, requires employers to register with the Labor Commissioner and mandates employment records for all workers.[52]

Job duties and working conditions. Washing cars is arduous, fast-paced, and potentially hazardous work. In full service car washes, workers at the entrance to the automated tunnel are responsible for pre-washing the car's exterior. They are constantly wet and can be regularly exposed to harsh cleaning agents. Though some employers provide protective gear, others do not. Another crew of workers, stationed at the exit, is responsible for hand drying the exterior of the car and cleaning the windows and interiors. Though sometimes completed prior to washing, vacuuming may also be a task performed by the exit crew. Risk factors for car wash workers include exposure to excessive heat (particularly inside cars during summer months), inhalation of chemicals in enclosed car interiors, and repetitive stress injuries from working in awkward positions. Pressure to work quickly, potential danger from slips and falls, and a lack of rest breaks contribute to the health risks associated with this low-wage work.

IMMIGRANT AND UNDOCUMENTED WORKERS

Laundry workers in California are mostly immigrants. Heavy loads, heat and repetitive work are common hazards. *Photo by David Bacon.*

Certain employee characteristics are also related to underreporting of occupational injuries and illnesses. Immigrant and in particular undocumented workers tend to be at highest risk for underreporting. More than 26% of California residents are immigrants, a percentage over two times higher than the rest of the United States.[53] Census data for 2000 indicates that approximately 37% of the 8.86 million foreign-born residents in California are relatively recent immigrants who entered the state during the preceding decade.[54]

The immigrant population in California continues to grow. The California Department of Finance estimates that the number of foreign-born residents in California in 2003 exceeded 9.3 million. Age and gender estimates for these residents show that the vast majority, 81.4%, are working-age individuals between 18 and 64 years old. Contrary to the popular perception that foreign-born workers are predominately male, there are only minor differences in gender among the age groups, with females slightly exceeding males both among the total number of foreign-born residents and within the over-50 age groups.

Table 4. State of California Foreign-Born Persons by Age

Age Group:	Males	Percent	Females	Percent	Total	Percent
0-4	*38,141*	*0.8%*	*26,209*	*0.5%*	*64,350*	*0.7%*
5-17	376,213	7.9%	342,596	7.1%	718,809	7.5%
18-34	1,472,651	31.1%	1,382,370	28.8%	2,855,022	29.9%
35-49	1,619,276	34.1%	1,584,629	33.0%	3,203,905	33.6%
50-64	773,654	16.3%	852,458	17.8%	1,626,112	17.0%
65+	463,289	9.8%	609,728	12.7%	1,073,017	11.2%
Total	4,743,224	100.0%	4,797,990	100.0%	9,541,213	100.0%

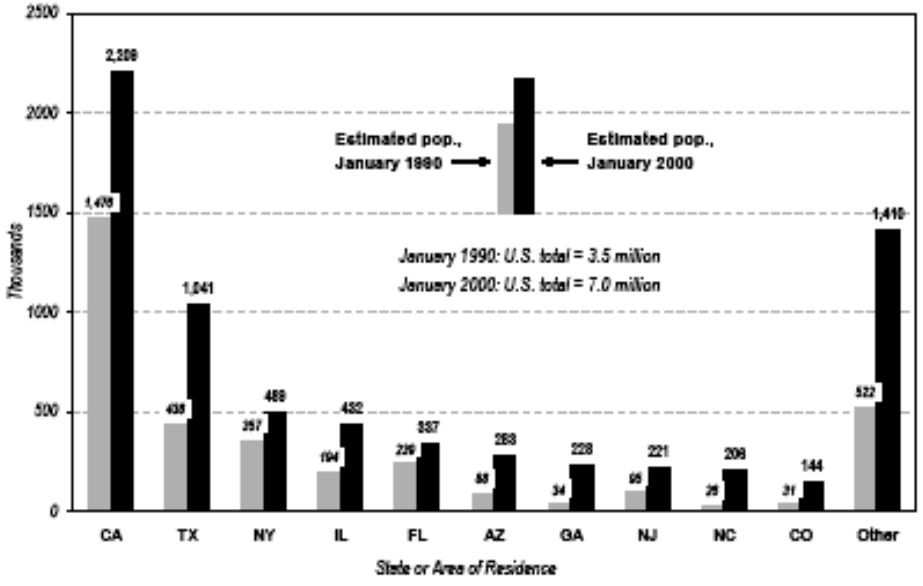
Source: State of California, Department of Finance, California Current Population Survey Basic Report, Table 4, March 2004.

Not surprisingly, foreign-born non-citizens are far more likely to be among the working poor. A recent Los Angeles-based study found that 46% of the working poor in California were foreign-born non-citizens.[55] Over half of California's working poor families is Latino.[56] Asian immigrants from China, Korea, Vietnam, Thailand, the Philippines and other countries, make up the second-largest immigrant group among the working poor.

Substantial differences exist among various immigrant groups in terms of their wage-earning ability and the likelihood that they will increase their earnings over time. According to a 1996 Rand study, Europeans entered the workforce with wages similar to those of native-born workers and continued to earn comparable wages over their working lives.[57] Mexican, Japanese, Korean, and Chinese immigrants entered the workforce at much lower wages than native-born workers, but within 10 to 15 years, wages for Asian workers reached parity with those of native-born workers. Mexican immigrants, on the other hand, experience a persistent wage gap. Legal status may be a major factor in the disparity in wages for Mexican workers.

Undocumented Workers. One of the highest-risk groups interviewed in this study was undocumented workers. According to the most recent estimates by the Department of United States Citizenship & Immigration Services (USCIS), formerly the INS, California leads the nation in the number of undocumented immigrants. In 2000, more than 2.7

Chart 1. Estimates of the Unauthorized Immigrant Population in the Top 10 States: January 1990 and 2000 (ranked on January 2000 pop.)



million or approximately 6.5% of California residents were undocumented.[58]

Nearly one-third of all undocumented immigrants in the United States now reside in California. According to USCIS, the number of undocumented immigrants in the state has increased nearly 50% over the past decade with 732,000 new undocumented immigrants entering the state since 1990. While specific data are not available for California, nationally over two-thirds of all undocumented immigrants are from Mexico and nearly 9% are from Central American countries. Given California's geographic location, these proportions are likely to be equal, if not higher.

LANGUAGE AND LITERACY SKILLS

Language is a major barrier for many working poor immigrants. Nearly 40% of all Californians—over 12.4 million people--speak a language other than English at home. Over 25% speak Spanish, while 8.6% speak Asian and Pacific Island languages and 4.3% speak Indo-European at home. Over half of these Californians, nearly 6.3 million, report that they speak English less than "very well."[59]

For most, the inability to speak English ensures that they are employed in low-wage jobs with very few alternatives available to them. Having low literacy skills and often limited acculturation, these workers are far less likely to report occupational injuries and illnesses, often because they are unaware of their rights. Training and prevention efforts can also be hampered when employers and their staff do not speak the same language.

> *"There is a great divide between managers and people who work in the kitchen. It's usually the immigrants who have to work in the kitchen. The managers [can't speak Spanish] and they never try to talk to the people to see how they are doing or how did they get burned, how did they get cut. They just don't ask."* **Restaurant Worker**

> *There aren't any laws that require that trainings be given in the workers' own language. One company insisted that their workers be trained in health and safety in English. Their bilingual supervisor was not permitted to translate the information for them. The workers were eventually fired because they did not pass the test in English.* **Community-based Organization**

Low Literacy Skills. Many English and non-English speaking low-wage workers have limited literacy. Based on results from the 1992 National Adult Literacy Survey, 60% of frontline blue-collar workers in the United States performed below the literacy level considered sufficient for success in our society. High percentages of the immigrant labor force that had been in this country less than 10 years could not perform even the most rudimentary literacy tasks successfully, according to a report by the National Center for Education Statistics.[60] Their analysis showed that 25% of those tested were unable to perform such tasks as signing their name on a Social Security card, 30% could not perform simple tasks such as locating the expiration date on a driver's license, and nearly 40% did not consistently succeed on tasks such as adding two entries on a bank deposit slip. Non-English speakers sometimes have limited or no literacy in their native languages, making it even more difficult for them to gain these skills in English.

LACK OF EMPLOYMENT BENEFITS

Lack of health insurance, lack of access to health care services and the inability to take time off work to seek care or recover from illnesses and injuries were repeatedly cited as reasons why workers did not seek care for chronic—and sometimes even acute--occupational injuries and illnesses. As will be discussed in Chapter 3, many workers reported working despite illness and, at times, considerable pain because they did not have access to health care services or did not want to lose pay or risk firing by taking time off from work.

Among ethnic groups, Latinos had the lowest rate of job-based health insurance (46.8%) while whites had the highest rate (75.4%).

Employment-based Health Insurance.

A recent report published by the UCLA Center for Health Policy Research provides important data on the availability of employment-based health insurance in California.[61] Using data from the 2001 California Health Interview Survey, the authors concluded that nearly two-thirds of all non-elderly adults and

children in California, 18.7 million in all, obtain health insurance through their own or a family member's employment. Undocumented immigrants had the lowest rate of job-based health insurance (29.8%) compared to US citizens (72.1%). Adults with family incomes over 300% of the poverty level reported job-based insurance rates (83.7%) four times higher than adults with family incomes less than 100% of the poverty level (20.5%) Among ethnic group, Latinos had the lowest rate of job-based health insurance (46.8%) while whites had the highest rate (75.4%).

The UCLA report is particularly noteworthy for the detailed analysis it provides of the reasons why workers are uninsured. Table 5, reproduced from this report, categorizes their findings according to whether workers are employed in firms that offer health insurance, deemed eligible for this insurance by their employers (eligibility) and accept the health benefits and pay the required contributions if any (take-up rates). Workers employed in the smallest firms (42.5%), low-income workers (48.9%), undocumented workers (50.4%), less-educated workers (57.6%), and workers earning less than $9.51 per hour (63.9%) were the least likely groups to work in firms that offered health insurance. Even if their firms did offer health insurance, low-income (71.6%) and low-wage workers (76.0%) were least likely to be eligible for this insurance or, if eligible, accept the insurance and pay any required contributions.

Sick leave and Vacation Time. Neither California nor federal law require the payment of sick leave or vacation benefits to workers. Workers at the bottom of the economic scale are among the least likely to have paid leave benefits. Nationally, 76% percent of low-wage workers have no paid sick leave.[62] While vacation benefits are more common and some workers receive paid personal leave days as part of their workplace, two-thirds of the working poor lack such benefits according to a recent study.[63]

For low-wage workers, the lack of paid leave means having to balance desperately needed income against their own and their families' health. Taking time off work to see a health care provider often results in lost pay and, in some cases, is not permitted by their employers. Workers frequently reported coming to work despite their illness or pain.

Table 5. Offer, Eligibility and Take-Up Rates For Job-Based Insurance

EXHIBIT 17. OFFER, ELIGIBILITY, AND TAKE-UP RATES AMONG EMPLOYEES FOR OWN JOB-BASED HEALTH INSURANCE BY DEMOGRAPHIC CHARACTERISTICS, AGES 18-64, CALIFORNIA, 2001 (CONTINUED)

INCOME AS PERCENT OF FPL*	OFFER[1]	ELIGIBILITY[2]	TAKE-UP[3]	WAGES PER HOUR LAST MONTH	OFFER[1]	ELIGIBILITY[2]	TAKE-UP[3]
UP TO 100%	48.9%	71.6%	67.6%	< $9.51	63.3%	76.0%	71.9%
101% – 200%	70.7%	85.1%	79.9%	$9.51–$14.25	85.6%	89.3%	83.1%
201% – 300%	84.4%	88.3%	85.3%	$14.26–$19.00	91.8%	95.1%	87.2%
301% +	92.3%	94.2%	86.2%	$19.01+	95.2%	96.9%	89.0%
CITIZENSHIP STATUS				FIRM SIZE			
U.S.-BORN CITIZEN	88.6%	90.3%	84.9%	FEWER THAN 10 EMPLOYEES	42.5%	83.9%	73.7%
NATURALIZED CITIZEN	84.2%	93.9%	84.5%	10 – 50 EMPLOYEES	72.3%	88.7%	79.3%
NONCITIZEN WITH GREEN CARD	71.8%	89.5%	81.4%	51 – 99 EMPLOYEES	84.7%	91.0%	81.6%
NONCITIZEN WITHOUT GREEN CARD	50.4%	90.1%	81.1%	100 – 999 EMPLOYEES	91.7%	91.4%	86.2%
EDUCATION LEVEL				1000+ EMPLOYEES	97.8%	93.4%	87.0%
LESS THAN HIGH SCHOOL	57.6%	86.3%	79.1%				
HIGH SCHOOL DIPLOMA	79.5%	88.6%	81.8%				
SOME COLLEGE	86.0%	89.3%	83.1%				
COLLEGE GRADUATE OR HIGHER	93.6%	94.2%	87.9%				

Source: 2001 California Health Interview Survey

FPL = Federal Poverty Level

Offer rate = Total number of employees offered health insurance divided by total number of employees.

2 Eligibility rate = Total number of eligible employees divided by total number of employees offered health insurance.

3 Take-up rate = Total number of people who took up insurance divided by total number of eligible employees.

LACK OF UNION REPRESENTATION

According to the Bureau of Labor Statistics, 16.8% of California workers—or 2.4 million individuals—were union members in 2003.[64] The majority of these were in the public sector. Among private sector employees, only 9.6% were union members that year.[65] The majority of current union members work in the education, transportation, and construction industries.[66] In 2001-02, only 11.7% of the state's foreign-born workers were union members compared to 19.7% of the native-born workers. A Los Angeles study of the working poor found that, in the late 1990s, only 4% of working poor were covered by a collective bargaining agreement compared to 22 percent of other workers.[67] However, low-wage workers, many of whose members are foreign-born, have been a key target in recent union

organizing efforts in the building maintenance, hospitality, laundry, home care, and other industries.

The data in this report are primarily based on interviews with non-unionized workers. No attempt was made to systematically contrast their experience with that of unionized workers. However, it was clear from the interviews and focus groups that unionized workers were considered more likely to speak up about unsafe working conditions and to file claims because they had the support of their unions. The contrast in attitudes among the unionized workers interviewed was also compelling.

> *We only report if we work for a company that has a union or a company with an important name. The companies we work for, nobody cares. So we don't file a report.* **Janitor**

While unionized workers may enjoy more freedom to speak out about workplace conditions and enforce their rights, it is also the case that unions that organize immigrant and low-wage workers frequently have limited resources. They often spend the majority of their efforts on organizing campaigns and have less time and funding to devote to the daily health and safety concerns of their members.

GEOGRAPHIC FACTORS

Geographic factors may also play a limited role in underreporting. Some Central Valley communities, for example, may lack adequate access to occupational health specialists. Specific industries may concentrate in certain localities (e.g., electronics in the Silicon Valley) or certain geographic areas may be home to particular ethnic workforces (e.g., Asian immigrant garment workers in the San Francisco Bay Area). Enforcement effectiveness and historical business practices may also differ geographically. Wage and hour violations, for example, are far more prevalent in the garment industry in Southern California compared to that in Northern California.

CHAPTER 3

FROM THE WORKERS' PERSPECTIVE: BARRIERS TO REPORTING INJURIES AND ILLNESSES

Low-wage workers face multiple barriers to filing workers' compensation claims when they are injured on the job. Fear of retaliation and actual retaliation by employers were the most common barriers mentioned by workers in our focus groups and interviews. Misinforming workers about their rights, using various methods to dissuade them from filing claims including threats and bribes, and using deception to avoid responsibility for injuries were widely reported. Other important barriers included:

Day laborers run in hopes of getting hired when potential employer stops by street corner where they wait for jobs. They often do the dirty and dangerous jobs other workers refuse to do. *Photo by Laura Perez.*

- A lack of knowledge or information about workers' compensation and work-related health issues
- Language barriers
- Various difficulties with the process of filing claims
- The lack of sick leave benefits or financial resources, which made workers reluctant to seek care
- Fear of deportation, a tradition of stoicism and, for many, the pressures of family responsibilities also contributed to widespread underreporting of workplace injuries.

Workers may have the right to safe working condition and the right to workers' compensation but they don't have the reality of it. I've seen about 120 or 130 workers injured and about 95% of the time the system doesn't work and nothing is paid to the worker. He doesn't even get help with medical care. **Community-based Organization**

Fear of injury is something we have in our hearts all the time. We can feel the damage in our bodies. We are afraid to ask for better working conditions because we will get fired. We sacrifice ourselves for our families. **Day Laborer**

Retaliation. Fear of retaliation for filing workers' compensation claims or complaining about unsafe conditions is a pervasive theme in the literature. Job loss, loss of promotional opportunities or preferred assignments, and harassment or other forms of workplace retaliation are concerns expressed by many workers who consider filing claims. For low-wage workers, especially undocumented workers or those with few other marketable skills, this fear is especially strong. The overwhelming majority of workers interviewed for this report expressed some variation of this concern.

> *Most of [us] are working for pirate companies. There are a lot of people who don't have documents and are afraid they will get fired right away. So a person is injured, he just bears it. He is afraid to say something.* **Janitor**

> *They say if I get sick, they will take it out of my pay. One time I did take a day off because of feeling sick due to the [floor stripping] chemicals. Sometimes these chemicals make me get nose bleeds and sick to my stomach and my vision gets blurry. I try to work anyway but one day I was too sick and I couldn't come into work. My supervisor threatened to fire me if I stayed home again.* **Janitor**

> *He said, 'Well if you want to leave you know where the door is.' That's how it is. They don't care if you go. They say 'You leave today, tomorrow three more will be here in your place." A lot of people are looking for work.* **Restaurant Worker**

> *We are all afraid of speaking because if one person speaks, they would look at us and find out who was speaking. They would lay you off because they don't like anybody to speak up or talk about their lives or say what they feel is wrong.* **Farmworker**

> *A lot of times, they don't want to give people that option of leaving if they get hurt, especially if it's a busy day. Yeah, you know, two, three days later, they'll fire you and put someone else in your place.* **Restaurant Worker**

Blacklisting. Fears of blacklisting or of ostracism by their fellow workers for potentially jeopardizing jobs are other variations of the often overt pressure on workers not to report injuries or speak up in the workplace. While we were unable to ascertain how much blacklisting actually occurs, the belief that it does exist is widespread and contributes to the atmosphere of intimidation.

They put us on that special list. Next time that [a complaint] happens and I am involved again, they'll throw me out. They'll just kick me out. **Farmworker**

I was told that every time you apply for a job as soon as they get your social security number and they see you have had an injury, they are not going to give you a job. **Injured Sales Worker**

The fear of blacklisting is real. I know of cases in which employers followed their former employees to their new work place and got the new owner to fire them. [Employers in the garment industry] are a close-knit group and pass the word around. **Community-based Organization**

I filed for workers' compensation because my doctor lectured me that I had to do it because my [repetitive stress injury] was so bad. I've been off for two weeks, but I'm going back early because the other workers say the boss is going to blacklist me. I'm going to try ... to heal my injuries myself. **Garment Worker**

Workers get ostracized by their coworkers. If you file a claim, you will put us all at risk of losing our jobs or the company going out of business. **Community-based Organization**

Garment workers perform high-speed, repetitive work, often in poorly lit and ventilated factories. Musculoskeletal injuries are common. Workers are also exposed to fabric dust and chemically-treated fabrics which may contain formaldehyde, a human carcinogen. *Photo by Ira Janowitz.*

Firing. While in some cases these fears may be misguided or exaggerated, all too often they are a realistic appraisal of the workplace situation. A number of workers we interviewed recounted actual experiences of being fired or retaliated against for reporting injuries on the job. Many others related stories of co-workers who experienced retaliation. In some of these cases, firing employees who complained or filed workers' compensation claims was actual company policy.

> *[The injury] happened on a Friday and I worked all that day and the next and then showed up on Sunday because the factory was working that day and I did not want to lose my job. But the pain became more than I could take and finally I told my boss that he would have to do something about it. He said, "Okay, go to unemployment and bring me the paper and I'll sign it." I was angry. This is an injury, not unemployment, I said. But it didn't do any good and I was out of a job.* **Garment Worker**

> *Where I used to work, we were getting paid less than the minimum wage and they were making us do more work without breaks or anything. They fired us for going to the labor commissioner to complain.* **Hotel Worker**

> *I would refer the janitors I supervised to the doctor if they were injured but then I would receive instructions from the company to fire them. It wasn't everybody—mostly older people or people who might complain a lot. One time an older woman slipped and fell and my instructions were to get rid of her or they would get rid of me. The reason they wanted her fired was that she went to her own doctor instead of the clinic they used. Another case was a woman who got chemical in her eyes. I sent her to the doctor and she spent two days in the hospital. My boss wanted her fired because he said she should have washed out her eye when she got injured. He said she was injuring herself on purpose to collect benefits.* **Former Supervisor**

> *One garment industry supervisor testified [in a wrongful firing case] that the company policy was to "tell workers how to file unemployment claims" if they complained about injuries or illnesses.* **Community Legal Clinic**

> *When I was injured, they said go home. If you cut yourself, they didn't give you any medical care. I was fired and somebody else replaced me. I took care of the injury myself at home.* **Food Market Worker**

Risk of Firing Reduces Likelihood of Filing Claims. Community-based organizations and legal clinics that assist low-wage workers concur that acts of retaliation against workers who tried to file claims are common. A number of legal clinics stated that they regularly advised their clients that they risk firing if they filed claims. Consequently, most claims that ultimately do get filed are from workers who have already been fired or who have acute injuries that require emergency care. According to the legal services and community-based organizations that serve these workers, frivolous claims are virtually non-existent among this population.

> *A group of workers came to me to file a wage claim and also a complaint that the temperature in their factory was so high they kept passing out. They also had no access to water. They discussed writing a letter to the owner, but when the workers heard that they could get fired (even though that would not be legal) and that it could take years to pursue a wrongful termination suit, they backed out.* **Community Legal Clinic**

> *Workers tell us they are afraid of being fired or of having to stop working if they file a claim. They can't afford to risk this.* **Community-based Organization**

> *We have to counsel many workers that they are likely to get fired if they file a claim and let them know that a retaliation case will take a long time to settle and is complicated. Most of the cases we file are for workers who have already left their job.* **Community Legal Clinic**

> *What typically happens is that workers who don't have a permanent disability are terminated a few months later because they are "trouble employees." It doesn't look like retaliation under the law, but it actually is.* **Community Legal Clinic**

> *It's rare for [farm] workers to complain about health and safety issues because they fear firing or other reprisals. The only time they will file a complaint is after they have been fired.* **Community-based Organization**

Physical abuse of workers. Actual physical abuse of workers in order to push them to work harder or because they had complained, while less common, was also reported. Three garment workers we interviewed described being hit by their bosses or supervisors for not working fast enough or for "complaining."

> *One day one of the contractors came to the factory and started pushing me to set aside the bundle I was cutting and do his job first. I said I couldn't do this, but I would get to his job within two hours. "I want this bundle cut and I want it cut now!" the contractor yelled. I tried to ignore him, but he kept getting angrier and angrier. Suddenly, he came up behind me and starting hitting me. I tried to get out of the way and stepped into a hole in the floor and fell, wrenching the entire side of my body. I could tell I was badly hurt. I couldn't see anything. All I could see was darkness. The contractor was on top of me, using his elbows to hit me in my cheeks, my eyes, my mouth. The blood was running down my face and some of my teeth were broken.* **Garment Worker**

> *My arm was aching every day and finally it got too much so I asked my supervisor if I could work on a different machine that was a little easier. She got angry at me and hit me in the back of the head [with a book-like object she was carrying] "You complain too much," she said. But it was the first time I ever complained.* **Garment Worker**

> *I was trying to push a cart full of fabric. It weighed 300 or 400 pounds and I couldn't get it to move so I told my boss. He got angry at me. "So you want help? I'll help you!" I was walking backwards trying to pull the cart and he pushed the cart into me and slammed me against the wall. I told him to stop. "This is my factory," he said. "I can do whatever I want." At first my shoulder didn't hurt very much, but an hour later, I was really in pain. When I told my boss, he said, "Okay, take your card and punch out. I'll let you know if I have any more work for you."* **Garment Worker**

Similar tales were recounted by day laborers about fellow workers beaten by employers, mostly occurring when they asked to be paid for the work they had performed. Several community-based organizations also reported instances of physical abuse of the clients they served who worked in other industries.

Underreporting of Chronic and Non-Acute Injuries. When workers did report an injury, in most cases it was because it was severe enough to prevent them from

working. Chronic pain and non-acute injuries were only infrequently reported to employers. In some cases, this was due to lack of understanding that these conditions are work-related and serious enough to report.

Almost everyone—workers and the system---focuses on acute injuries rather than the less visible chronic illnesses and cancers stemming from long exposure. **Community-based Organization**

Acute poisoning—someone passing out in the field—is less frequent now and that is making the problem harder to deal with. There are still a lot of chronic, sub-acute problems: flu-like symptoms, rashes and so on that get ignored or misdiagnosed. **Community Health Worker**

When we invited OSHA to do the training, some of the workers learned for the first time that the pain they were feeling was from repetitive stress injuries from their jobs. They were so upset to learn this, they literally had tears in their eyes. **Community-based Organization**

Employers sometimes lack knowledge about what is covered by workers' compensation. One nursing assistant had a repetitive stress injury but her employer told her, "You don't have a specific injury so I don't know what to do. I don't think this qualifies." It seemed to be a case of genuine ignorance. **Community Legal Clinic**

Most farmworkers think a work-related injury is something like a fall or a broken bone, but they think cumulative injuries are just normal and that the body wears out. They look at pesticide exposure the same way. They talk about the acute episode, "the time they got sick", but aren't aware of the effects of chronic exposure. **Community-based Organization**

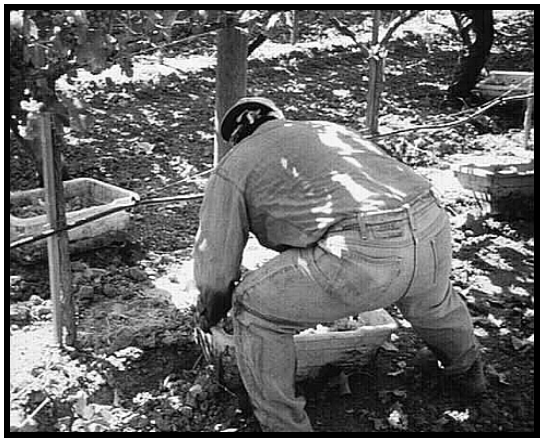


Photo by Rupali Das.

PROFILE: Farmworkers

Workers in lettuce fields. *Photo by Rupali Das.*

The strawberry, lettuce, and grape workers in our focus group all complained of continual pain in their feet, limbs, and back, which they said was from having to walk in the narrow spaces between rows. "We live on Advil and Tylenol," many said. "Even when I'm not working, the pain still bothers me." To make certain the interviewer understood, they got up and demonstrated their work positions. "We have to stand like this, bent over at the waist all day long," a strawberry worker complained as he illustrated how they straddle a row with the outside edges of their feet slanted up on the adjoining rows, a position which forces them into an almost knock-kneed posture. "We don't have enough space to put one foot next to the other," explained a lettuce picker. She showed how they stood, awkwardly balanced, with one foot lined up directly behind the other. "Because the row is so narrow, we have to bend over sideways to cut the lettuce. Then we reach up to toss it on the machine." "For us, it is different," said the grape workers. They described reaching over their heads to prune, an uncomfortable position that forces them to stand so close to the trunk that the balls of their feet and their toes are constantly arched backward due to the dirt mounded at the base. "It's really bad when the ground is muddy and slippery," they agreed. "It's about money. The rows are this way because the growers want to produce as much as they can from every acre." **Focus Group**

The industry. California, with its 88,000 farms and ranches, grosses nearly $28 billion in cash income annually, making it the nation's leader in agriculture.[68] Dairy is the single largest farm commodity in the state, accounting for over 14% of the industry's gross annual income. Approximately 67% of total revenues come from crop production, with nursery products, grapes, lettuce, and almonds all producing billion dollar crops annually.[69] Roughly one-third of hired labor is supplied by (mostly small) farm labor contractors[70] who bid against each other to supply workers for planting, pruning and picking work. Approximately 1,200 labor contractors are licensed with the Department of Industrial Relations; an unknown number are not. Historically, this industry has been exempt from many common labor standard protections, including overtime pay requirements, some collective bargaining rights, and certain health and safety standards.[71]

The workers. According to a California Employment Development Department study, the number of individual farm workers reported by farm employers rose to almost 1.1 million in 2001, while average annual employment on the State's farms fell to 388,000. The fastest growing employer of farm workers are farm labor contractors, who pay the lowest annual averages wages, $4,385 per worker in 2001. By contrast, vegetable farmers pay the average worker $11,518 annually.[72] Nearly 96% of California farmworkers are Latino, and a reported 34 to 42% of these workers are undocumented.[73] The proportion of women in this workforce continues to increase, with recent estimates ranging from 18% to 36%. Though the median age for workers is mid-30s, a significant number of youth under 18 work as farmworkers.[74] Nearly three-quarters of farmworkers lack health insurance. Farmworkers' access to health care, especially dental and eye care, falls below national standards. For example, 32% of male workers reported never having been to a doctor or clinic in their lives.[75] Substandard housing is an ongoing problem. Workers being paid less than minimum wage and other wage and hour violations are common.

Job duties, working conditions, and health risks. While farmworker tasks vary depending on the agricultural commodity, the season, and other factors, the average workday for farmworkers in any field is usually long and hard. Bending, stooping, reaching, and working in awkward positions for long periods are common physical hazards. Nearly 30% of respondents in the 2001 Binational Health Survey reported at least one lifetime injury due to falls, repetitive motion, pesticides, equipment, or other causes.[76] In the earlier California Agricultural Worker Health Survey (CAWHS), 27% of farmworkers reported at least one lifetime injury, with the highest number occurring in young workers between the ages of 14 and 21. This study found that 44% of respondents experienced a problem with pain for a week or more during the preceding year. Forty-three percent of this group changed or left their job because of the discomfort.[77]

Unsanitary conditions and pesticide exposure are continuing problems for farmworkers. Thirteen percent of CAWHS respondents reported an absence of clean drinking water and cups at their worksite. Forty-three percent reported receiving no training in pesticide safety. In 2001, the state's agriculture, forestry and fishing industries reported 72 deaths, or slightly over 14% of the occupationally related deaths in California, and over 26,000 occupational injuries.[78]

Normalization of pain and injury. For many low-wage workers, sub-acute injury and pain are so common that they are considered a normal part of the job. The belief that bodies just wear out or are meant to be "used up" is common. Suffering is seen as just a "part of life." For some immigrant workers, different cultural practices and beliefs about treating illness, the lack of health care services in their countries of origin and lack of familiarity with the U.S. system can reinforce the belief that suffering is natural and pain is not preventable. Such issues were raised repeatedly by agencies serving workers from a wide variety of cultural backgrounds.

> *Latinos tend not to get preventive care and often wait until the situation is extreme and then they go to the emergency room. They don't want to get pay docked for taking off and going to a clinic. Most have no health insurance and many do not have a "wellness" orientation to medical care. For women, there is also that tendency to take care of everyone else first and put themselves last.* **Community-based Organization**

> *The problem is that many Asian immigrants have normalized injuries as just part of life and are not motivated to report them because they expect retaliation.* **Community Legal Clinic**

> *Most don't know about workplace injuries or benefits or have a clue about what this does to their bodies. They are afraid to speak up for fear of being fired. It is also not part of their culture to speak up. In Ethiopia, there are few clinics so health care and this kind of thinking is not usual.* **Community-based Organization**

> *Ninety-nine percent [of garment workers] will say that injury and pain are just a part of working life. They are resigned to being in pain because they need to work. If they complain at this factory, the only alternative is a job at another similar factory. So why bother.* **Community-based Organization**

Keep working despite injuries. Few low-wage workers have sick leave benefits at their jobs, so staying home from work due to illness frequently means loss of much-needed income. The decision to leave work due to injuries or illnesses or to call in sick is thus made at considerable personal cost. Several interviewees described continuing to work despite nearly unendurable pain because they believed they had no alternatives. Others reported continuing to work despite constant worry about health problems and chemical exposure.

I was in constant pain for the next five months. My back hurt all the time and my knee and leg were very painful. I was working 11-12 hour days and could barely keep going. Many days the owner and his friends would see me limping to work and they would laugh at me and insult me. You just get used to taking the pain and humiliation because your family depends on you. I didn't want to invite trouble by complaining and I just hoped I would get better after awhile. I took 5 or 6 pills a day and asked God for strength. I guess God must have helped me through those months. **Garment Worker**

When I was working in raspberries, I got so used to having my neck up because that's all I did all day long. And after I was home I'd have to look [up] like this. I couldn't look down anymore because my body got used to that position. **Farmworker**

I quit my job after twenty years because I want to get away from working with this chemical. I didn't get training in how to use it safely. I was feeling fatigued, sick, but the doctor said there was no sign of problems. I'm okay right now, but I don't know what will happen in the future. I worry all the time about what the long-term effects will be. **Metal Worker**

I bring Tylenol in my lunchbox because I'm in pain all the time from working like this. Everybody does. We have to take medicine when we go home at night, too. **Hotel Housekeeper**

"The patient was really heavy. I didn't know I could ask for help. I just thought it was my job and I had to do it. Now I've got this constant pain in my back and shoulder. **Nursing Home Worker**

Perceived Employer Indifference to Worker Injury. The belief that employers were indifferent to their workers' well-being was widespread. Although several low-wage workers told stories of employer assistance when they were injured, the majority believed that employers cared little about what happened to them. This perceived attitude created an atmosphere in many of the workplaces that contributed not only to underreporting, but also to worker unwillingness to notify employers of health and safety problems at the job site. Few of our respondents thought that reporting unsafe conditions would result in changes. Many believed that employers would consider them "complainers" or worse if they raised such concerns.

> *I have fallen about 20 times but I never said anything. Everyday we clean. I've been there 13 years and they've never asked me, "Hey, how did you fall?" Or "What happened?" or nothing like that. But one time this lady [customer] was there and she walked onto the [area where he was applying stripper] even though she wasn't supposed to. She fell and they were trying to fire me because she was suing.* **Janitor**

> *In our work at the supermarket, if a person gets fired for reporting an injury or something that person looks for a job somewhere else and just lets it go. If you have work experience, you know you can go somewhere else and get a job, but as far as the injury or accident goes, nothing gets done about that.* **Supermarket worker**

> *For three months, I was using this chemical and... It went into my eyes and it burned horribly. I was desperate and the only thing around was hot water. I put that in my eye and of course it made it worse. I thought I was going to be blind from then on. They were not interested. They said, "Well are you okay? I said, "yeah, but I still was not well. It burned for about 6 hours. They didn't take me to the hospital, nothing."* **Janitor**

TREATMENT OF INJURED WORKERS

Several of the workers described being treated supportively by their employer, including two who said the employer helped them file workers' compensation claims. The majority of the workers, however, reported different experiences when they were injured. Many complained of being sent to employer-designated doctors, given minimal treatment, and then told they should return to work despite, in their view, the severity of their injuries and the fact that they felt unable to continue working. Others reported being dropped off at emergency

rooms by their employers, left without medical care (despite severe injuries), required to continue working for the sake of production needs, told to pay their own medical bills (mostly without reimbursement), offered cash payments not to report their injuries, or told to see their primary care provider for treatment.

Send to a Company Doctor/Clinic. One of the most frequently heard complaints from workers was being sent to employer-designated doctors who trivialized their injuries or illnesses and sent them back to work with a "few pills." Several workers and agencies told stories about conditions diagnosed by employer-designated doctors that later turned out to be far more serious.

> *When I was pregnant, the smell of the chemicals [pesticides] would get me very nauseous but the doctor would talk to the employers and they would say I was still okay to work. Even after I would get sick a lot, because I suffered from pneumonia, they would still just give me a slip and send me back. They finally stopped me [from doing field work] when I was about 3 weeks and 2 days before I would give birth.* **Farmworker**

> *One worker was told to return to work by company doctor who said he was "fine." He decided to get a second opinion from his own physician. It turned out that he had a fractured spine. His return to work could have resulted in permanent paralysis, according to his own doctor.* **Community Legal Clinic**

> *I used to buy gloves at the 99-cent store so that I could clean the bathrooms because the supervisor would not bring gloves for us. It was an old glove, the chemical seeped in through the glove, and it was burning up my hand inside. I went a week later to their doctor who said no, it was not an industrial accident.* **Janitor**

> *Low-wage workers are not getting the medical care they should from these employer-contracted clinics. They go in with a severe injury and are routinely sent back to work within three days—no matter what the level of their injury so that they won't qualify for benefits. It's a constant frustration...and worker fear of retaliation really suppresses this problem.* **Private Attorney**

Leave Workers at Emergency Room or Without Care. In some of the more egregious cases, employers simply dropped injured workers off at the emergency room and disappeared, leaving the worker and the taxpayer to deal with the expense. We also received several reports of employers leaving severely injured workers on the street instead of taking them to the emergency room.

I cut my leg using a chain saw. See the scar [he lifts his pant leg to show a broad 10-inch scar on his calf.] The boss dropped me off at the emergency room and left. Now they are billing me $600 and I don't have it. I tried to get a lawyer, but he says my case is too small. My boss said it wasn't his responsibility. **Day Laborer**

One of our clients was a 15-year-old immigrant who was injured while working at a construction site for a small contractor. The gash in his head was bleeding profusely. His fellow workers were about to take him to the emergency room when their boss pulled up in his pickup truck. He told them, "Don't worry, I'll take him to the hospital myself." The worker was later found later wandering dazed and bleeding in a strange neighborhood where his employer had dumped him instead of taking him to the hospital. **Community Legal Clinic**

One day laborer fell from an unsafe scaffolding provided by his job. He lay on the ground for an hour while his employers argued about the liability for his injury. One of them offered to give him $10,000 if he would claim that he had been injured at the beach. Finally, his coworkers picked the injured worker up and took him to the emergency room themselves. He is recovering but he is getting all the bills for his medical care and has no resources to pay them. **Community Legal Clinic**

Photo by Nan Lashuay

PROFILE: RESTAURANT WORKERS

Photo by Nan Lashuay

"Things come out of the dishwasher hot. You burn all the hair off your arm. You put your hand in fast, but just even the steam coming off the plates can burn you."

"So we are alw ays yelling at [the dishwasher] 'we need glasses, we need glasses,' even though he is already working really hard and really fast."

"We're always in a rush. I don't know a single worker who doesn't get cut when they prepare food. Every time I cut bread, I cut my fingers."

The industry. According to the Californian Restaurant Association (CRA), there were nearly 78,000 foodservice establishments operating in the state in 2003, with projected sales in excess of $44 billion.[79] Ranging from tiny family operations to high-end establishments that may serve thousands of meals per day to fast food chains with numerous franchise outlets, restaurants are an essential part of California life. Expenditures on meals away from home account for more than 45% of consumer food budgets in the state's three largest metropolitan statistical areas.[80] Restaurant patronage is expected to grow over the next five years though actual profits may not, according to the CRA which claims that restaurants keep less than a nickel in profits for every dollar of sales.[81] Economic recessions and human or natural disasters can dramatically reduce profits for businesses dependent on tourism.[82] While restaurant ownership is attractive to immigrants and other new entrepreneurs, high failure rates indicate it is a difficult and competitive business in which to succeed.

The workers. Restaurants and other food service establishments, with nearly one million workers, are the largest low-wage employers in California. Food service occupations rank second only to retail sales work on the California Employment Development Department's list of the ten highest-growth occupations for this decade.[83] While some food servers may earn substantial incomes from tips,[84,] many others join cooks, food preparation workers, dishwashers, cashiers, hosts, and dining room attendants in making up the cadre of low-wage workers employed in restaurants. Restaurant workers are almost entirely non-unionized in California. Young workers (ages 16-24) perform approximately 37% of the total hours worked in the industry.[85]

Job duties and working conditions. Eating and drinking establishments have slightly below-average rates of reported injury or illness cases per 100 full-time workers. In terms of the total number of these cases, however, they often rank at the top of the U.S. Bureau of Labor Statistics annual survey of industries with the highest number of reported injuries and illnesses.[86] The most common nonfatal injuries and illnesses among restaurant workers include sprains, strains, and tears from heavy lifting and from slipping on wet floors (35%), cuts from knives and other sources (15%), and burns and scalds from contact with hot fats, steam, and cooking machinery (11%).[87] The majority of fatalities are from homicides.

Underreporting is likely to be high in this industry, particularly among the heavily non-English-speaking immigrant kitchen workers who do most of the food preparation and dishwashing jobs. One of the few studies available about this population found that immigrant workers employed in Los Angeles's Koreatown restaurants were working 12-14 hours a day, without overtime pay and in "deplorable" conditions; a claim borne out by Department of Labor sweeps in the district.[88]

Provide Token Medical Treatment. In several instances, workers reported being offered small amounts of money or token treatment to prevent them from seeking medical care or leaving the worksite.

> *I was standing on a forklift to unload some stuff when the driver accidentally stepped on the gas and I fell off. I was up pretty high when I fell. I broke some ribs. The boss refused to take me to the emergency room. He sent me home and gave me $4 to buy some medicine and said call me when you are feeling better. I didn't even get paid for working.* **Day Laborer**

> *If you get sick with a fever, they give pills here at the restaurant. I recently had a fever, the flu. But it's like you've got to go to work with a fever and the flu because if you don't they'll fire you.* **Restaurant Worker**

> *We use propane gas in the floor stripper machine. It flamed up and burned me. It took a long time to heal. You could see all the way down to the bone for about a year. I didn't file for workers' compensation because the boss told me not to. He kept giving me this ointment. "Here use this ointment," he said. But he never offered to pay medical costs for me.* **Supermarket Janitor**

> *Their employers will pay for the immediate medical care and some have even taken people across the border for medical care. But the worker won't get extended care or disability benefits.* **Community-based Organization**

Force to work despite injuries. Several workers reported that in addition to loss of income, they faced enormous pressure from employers to continue working when they were ill or injured. This happened more frequently in businesses with very small staff or in industries in which the workload is determined by immediate customer demand or is otherwise inflexible. One community-based organization reported that workers were not only docked pay, they were sometimes required to pay for substitutes if they called in sick.

> *If somebody gets injured, they just have to go home. At [busy] times, they don't want to let somebody go, you have to keep working even though you get burned. Otherwise, you'll get fired.* **Restaurant Worker**

At some [maintenance] companies, if you are sick you have to find a substitute for the day and pay them out of your own pocket. Some of the companies even dock them for a substitute and don't pay them for the day. It's illegal, but it happens. **Community-based organization**

Dissuade Workers from Filing for Workers' Compensation. In other cases, employers provided limited medical treatment or paid for services but either did not inform injured employees that they were entitled to workers' compensation or tried to dissuade them from filing claims.

The owner would take the person to the clinic and pay the time off, but wouldn't tell them about worker's compensation. They didn't post it either. **Jewelry Worker**

Just pay and bring me the receipt, the supervisor said. And you understand why he did that? So they wouldn't have to use their own insurance. Because if something would go worse, there was no report by the company. I told them, no because she became injured here and she needs medical attention through the company and she's not going to pay the bill. You guys are going to give me the paper so I can take her right now. They did give it to me, but it cost me my job. **Farmworker**

Some employers will pay for immediate medical care and some have even taken people across the border for medical care, but the worker won't get extended care or disability benefits. **Farmworker Organizer**

Oh yes, they would take you to the doctor immediately. A guy got a really deep cut here with a knife. They took him to get stitches and later they even took him to get the stitches out. He didn't have to pay anything for the medical care but he missed days and he didn't get paid for the days of work he missed. **Restaurant Worker**

I didn't file a workers' comp claim because the company told me not to. I'm 64 years old and didn't want to lose my job, because I have nothing, no retirement, nothing. The company said not to file for unemployment. You're going to get called back to work. They did not hire me again. When I realized they were deceiving me, I finally went to an attorney but she said it was too late to file. **Janitor**

Shift Costs to Primary Care Insurer or Employee. When workers did report chronic or non-acute illnesses or injuries to their employers, a common response was to refer them to primary care services or insist that they pay their own medical expenses. The issue was of particular concern in the farmworker focus group.

> *One janitor complained to his supervisor that the work he was assigned was too heavy and was told to get back to work. During the course of the evening, he started getting a "little bulge popping out" near his groin that got bigger and bigger over the course of the evening. He complained unsuccessfully a second time. Finally, his condition got so bad that the company took him to an industrial clinic where the doctor said he needed emergency surgery. After the surgery, the company said they didn't have insurance for this so worked out a plan to dock the worker $80 a month from his paycheck to pay for it. The employee did not return to the job and no claim was ever filed.* **Community-based Organization**

> *If we want to go to the doctor because of rashes or headaches [from pesticide exposure], we have to pay our own visits.* **Farmworker**

> *The place where I used to work we planted ivy. One type would hurt a lot of people on their skin. [The employer] sent us to the doctor to get a shot but we had to pay for it ourselves. And all they give is one shot and the shot is $120. Sometimes you don't have $120 in your pocket.* **Farmworker**

> *We use a frame that holds six boxes and it fell on me. I went to my [primary care] doctor. It's more or less better now. No, I didn't file for workers' compensation. It was just medical.* **Farmworker**

WHEN WORKERS TRY TO FILE CLAIMS

When workers actually tried to file workers' compensation claims, they often faced overwhelming barriers in the workplace. Some accused employers of deceptive practices including claiming that they were not actually their employees or "losing" injury and illness reports. In other cases, legitimate claims were not processed because the documentation was not available. Some workers claimed they were misled by their employers and the statute of limitation expired before the claims could be processed. While such problems

were reported by workers in every industry we interviewed, day laborers and construction helpers appeared to be the victims of some of the worst abuses.

Deny that Worker Was Their Employee. Several workers reported that their employers attempted to deny that they actually worked for them in order to avoid responsibility for a work-related injury. In some cases, this resulted in delays in workers' compensation services while the worker had to provide copies of pay stubs and other documentation to verify their employment. Agencies that assist these workers report that low-wage workers are often not aware of the importance of keeping this paperwork and unscrupulous employers may be relying on the fact that they may not be able to supply documentation when needed. Other low-wage workers employed in the underground economy and paid in cash, by personal check or not given pay stubs face exceptional challenges in proving that they were ever employed. As a result, they are often unable to pursue claims.

> *One client carried around 30 50-pound bags of concrete every day interspersed with using a jackhammer to break up concrete. He worked until he collapsed and ended up permanently disabled with a herniated disk. The employer had always paid him in cash and denied that the worker had been in his employ despite the fact that the worker had been living in his basement for the past five years.* **Community Legal Clinic**

> *One guy I worked with was hit by a forklift and ended up disabled for more than a month. He had been paid in cash and the boss claimed he wasn't working for them. He had no pay stubs or papers to prove he was—even though he had been working for this same company for months.* **Day Laborer**

> *F., a roofer, fell and had to be airlifted to the hospital. Even in this obvious instance, the employer tried to deny that F. was his employee.* **Community Legal Clinic**

> *We turned in the claim and the insurance company bounced it right back to us saying Ms X hadn't been employed at the garment factory where she had worked for the past two years. Fortunately, she had all her payroll records but it caused numerous delays and paperwork hassles and, to my knowledge, nothing ever happened to the employer for giving this false information.* **Health Clinic**

Claim Worker Was an Independent Contractor. Another method frequently used to avoid responsibility for injured workers is to attempt to classify employees as independent contractors. Such practices were reported by employees of maintenance firms, messenger businesses, garment factories and other small manufacturing concerns. In addition to simply falsely categorizing workers as "independent contractors," two variations of this included insisting workers join an independent contractors association and sending them to get business licenses.

> *They make you sign up for this independent contractor association. Then the company treats you as an independent contractor-even though this work doesn't meet the independent contractor definition. The association sells you some kind of fake workers' compensation plan. One worker received $3 in payments for his lengthy time off work.* **Bike Messenger**

> *The [electronics manufacturer] tells workers to get a business license and then they can take boards home to be soldered. The whole family, children and all, gets involved in the work. It's a scam to avoid paying benefits. Meanwhile this hazardous work is being done in homes.* **Community-based Organization**

Fail to Provide Accurate Employer Contact Information. A frequent problem reported by workers hired for short-term jobs or by companies that operate in the underground economy is lack of information about their employer. Workers paid in cash are especially vulnerable to this problem since they do not have pay stubs or other documentation about their employer. Some small employers may work out of their vehicles and not have a permanent place of business, making it particularly easy to hide their actual identities from the workers. The problem is so widespread that organizers at day labor centers routinely advise workers to write down the location of the site where they worked as well as any identifying information they are able to glean about their employers including vehicle license numbers. In other cases, employers have been known to change the name of their business or close the business entirely and open up in a new site under a different name. Such occurrences are not uncommon in the garment and janitorial industries.

Workers are given only a name and a cell phone number for their employer or an address that is very far away and which may be a mailing service. This way the employer can't be traced. Some of them actually close their businesses and reopen elsewhere to avoid legal issues. **Community-based Organization**

I know that instead of dealing with the problem, they just close the company and open up under a new name. Those of us who work for this one company, they always change their name. They are contractors. **Janitor**

Many times the workers don't even know their boss's full name. Writing down the license number doesn't help since you can't get access to the owner's name unless you have an active court case. Since these cases don't make it to court—that is useless. **Community Legal Clinic**

The worker doesn't know the employer's name or the employer doesn't have insurance or there is a dispute about independent contractor status. It is very costly. The worker will say his employers name was "Joe' and you have to pay for a process server and do the detective worker to find out who the employer was. **Community Legal Clinic**

Deny injury was work-related or occurred on the job. There were also several reports of employers denying that injuries were work-related and refusing to allow employees to file claims on this account. In the case of chronic pain or non-acute injuries, this may have resulted from a genuine lack of understanding of the regulations. However, in some cases, the attempt to dissuade workers that their injuries were work-related or occurred at the workplace clearly appeared to be intended to prevent them from filing claims.

A bakery worker who had bilateral hernias from heavy lifting all the time was told by his boss that his injury was caused by having too much sex. "I'm not filing a claim for that," the boss told him. **Community Legal Clinic**

When I got injured and told my supervisor, he ignored me. I worked for six months more even though I was hurting. Then I injured my arm again and it was too much. The company sent me for x-rays and therapy but when I tried to file a claim the new supervisor said that I didn't injure myself there. There wasn't any record and

anyway it was too late to file a claim. I'm disabled for the last month and a half, but I haven't received one cent of the money they were supposed to send me. I have no money at all and I can't pay my rent. I have a family and don't know what we will do. **Janitor**

Refuse to Process Injury Reports or Workers' Compensation Forms. Several workers reported that their supervisors refused to give them the paperwork or to process claims forms when they were filed. In a number of cases, employers claimed that the paperwork was lost or the forms had never been completed. Workers also reported that employers told them they had or would file claims for them, only to discover later that this had not been done.

A worker who came to see us reported that when she turned in her claim form, her boss said, "This is what I think of this," and tore it up and threw it in the garbage. **Legal Clinic**

I asked for [the accident report], they wouldn't give it to me. A man from the company said the papers belonged to the company and they shouldn't be floating around. But I thought they were about my health and I should know about it. **Janitor**

What happens at my place—two years ago I fell from a machine on a wet floor and reported it to my manager and we filled out the papers. But when I said I was going to go to the doctors, he said I had not filled out anything. And that there was no evidence of anything. That's the problem. So even if you talk to the manager, they don't give the copies to anybody else or anything. **Janitor**

Employer Threats and Coercion to Dissuade Workers from Pursuing Claims. Among the most serious violations reported was an instance in which an employer threatened a worker with potential physical harm in order to get him to drop an injury claim. Several other workers reported that employers used various forms of coercion to get workers to drop cases or relinquish their rights. Undocumented workers were at particular risk of threats and coercion due to their status.

Nearly every night for the last few months, I get threatening phone calls at home. During dinner with my family or sometimes other times. "You will never win this [workers' compensation] case. You better drop it now." I think it's the same voice, but I don't know who it is. I am thinking about going to Mexico for a while until the case is settled and things calm down. **Garment Worker**

My boss said, "If you go to a lawyer, you'll lose. I'll get a lawyer, too, and I can afford a better one than you. He gave me a blank piece of paper and started insisting that I sign it. But I refused. **Garment Worker**

Here, if you want a job, sign this paper saying you agree to reduce your salary [following an injury]. If you don't sign, it means you quit. **Garment Worker**

A hotel worker asked for the forms to file an accident report and her boss replies, "Yes, and will you tell me your social security number again?" **Legal Clinic**

SYSTEM BARRIERS

Lack of knowledge about workers' compensation benefits, language barriers and the complexity of the process are major problems preventing many workers from filing or pursuing claims. In almost all cases, workers were only able to pursue claims successfully when they had legal support and even then, they often achieved only limited success. Racism and discrimination were also cited as deterrents to workers filing or pursuing claims.

Lack of Knowledge about Workers' Compensation Benefits. Worker knowledge about health and safety rights and workers' compensation benefits was limited at best. Immigrant workers and workers employed in the underground economy were the least likely to know about their health and safety rights or about the government agencies which enforced these rights. Televisions, radio, word-of-mouth, and, for some ethnic groups, print media were the primary ways they obtained information. In most cases, their information about workers' compensation came from advertisements by lawyers, chiropractors or other

practitioners who used these media to reach potential clients. A few had obtained information from community agencies, legal clinics, or their employers. Almost none had received information from government agencies or had noticed or read the posters required to be hung in the workplace.

> *I didn't realize there was such a thing as workers' compensation until my doctor told me about it.* **Garment Worker**
>
> *They don't even know workers' compensation exists or that they have any right of this sort. We've had contact with about 2000 workers during the last 3 years and it is rare that anyone knows about it.* **Community-based Organization**
>
> *The reason workplace injuries are not mentioned that frequently by Latinos is that people are unaware of their options. The think it is just normal and there is no redress if they are injured on the job. There is very little outreach or training on this topic.* **Policy Organization**

Limited Availability of Information in Appropriate Languages. The majority of low-wage workers are limited or non-English speakers. While the predominant language among these workers is Spanish, monolingual Asian speakers (Chinese, Vietnamese, Thai, and Cambodian) are common among the ranks of low-wage workers. Recent immigrants from Eastern Europe and the former Soviet Union, speakers of indigenous dialects from Latin American countries and immigrants from countries with smaller populations in the United States (e.g., India, African countries) are also found in the low-wage workforce in California.

Limited English language skills greatly affect many low-wage workers' ability to initiate or pursue workers' compensation claims. In some workplaces, there is a language barrier separating workers from managers, which, among other things, hinders reporting of health and safety complaints. Workplace posters informing workers of their health and safety rights, though required to be displayed, are generally available only in English and, to a

lesser extent, Spanish. Even then, compliance with this requirement is notoriously lax. Handouts describing basic workers rights, provided in several languages, and worker compensation information and claims forms, in English and Spanish, are available from the Department of Industrial Relations, but the distribution of this information is not widespread and unlikely to be available in many worksites.

Even when workers have access to basic information about workers' compensation, filing and processing of workers' compensation claims almost always involves further correspondence or conversation. Though limited help is available from some insurers (notably the State Compensation Insurance Fund) or the Department of Industrial Relations, many workers are not aware of this. The expectation of communication difficulties can easily discourage non-English speaking workers from complaining about conditions or filing claims.

> *I had to ask my friends and family to take pity on me and help me fill out all the forms and translate for me with all these people.* **Garment Worker**

> *Because I'm a citizen and I can speak English, I can fill out the papers. If I make a report, I don't have to be afraid that my managers are going to fire me. But that's a privilege the kitchen workers don't have. And that's why even though they get hurt, they have to keep on working.* **Restaurant Server**

> *Another problem is a lack of attorneys to serve this population in their own language.* **Community Legal Clinic**

> *Racism and discrimination are common experiences for these workers. They get called "stupid" and treated rudely because they don't speak English. It impacts injury issues because it makes workers less likely to file complaints.* **Community Legal Clinic**

Information is Difficult to Understand. In addition to limited information and assistance for non-English speakers, the complexity of the language used in the workers' compensation process is all too often daunting even for native English speakers. As

described in Chapter 2, literacy levels for low-wage workers, particularly newer immigrants, are very low. Many are unable to perform simple reading comprehension tasks or to complete basic forms successfully on their own.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has done an admirable job of producing straightforward, reader-friendly pamphlets on workers' rights and basic guidelines to the workers' compensation process; however, even these documents may be too complex for the reading skills of many low-wage workers. Moreover, pamphlets and brochures, even when well-designed, are at best a partial solution. Individual cases all too often involve complicated or specific questions not covered by information handouts. Most workers will be unable to find answers to these questions on their own.

Even more problematic is correspondence from insurers, claims reviewers, and other government agencies, which are unlikely to have been designed for low literacy clients. These documents can be extremely difficult if not impossible for many low-wage workers to comprehend. Loss or termination of rightful benefits or inability to pursue complaints or appeals can easily be due to misunderstanding the documents and failing to comply with procedures.

> *The insurance companies send out letters written in gibberish that none of the workers can understand. They should be required to rewrite them so they are clear and make sure they are translated into the language used by the worker.* **Legal Services Provider**

> *Filing cases on their own really isn't a good option. When people file wage claims—which is much easier—they invariably make mistakes on literacy and consistently underestimate the amount that is owed them.* **Community Legal Clinic**

> *Workers are tremendously disadvantaged when it comes to filing claims. They don't understand the system at all and have trouble filling out the forms. Most of the [self-completed] forms I see are a mess.* **Private Attorney**

Slowness and Complexity of the Claims Process. A major complaint from low-wage workers who had filed or tried to file claims and the agencies that assisted them was the difficulty they faced in navigating the workers' compensation system. Many of these workers

complained that the system was confusing to them; they had little or no success in getting answers to their questions, and were treated poorly by insurance companies. The belief that insurers created barriers on purpose to discourage workers from obtaining medical treatment or benefits was common. Some agencies mentioned that 90-day delays in approving claims were commonly invoked for low-wage workers.[89] The slowness of the system created particular hardships for these workers, who could least afford to pay for their own medical needs in the interim and who had to wait for payments which were delayed or, in some cases, never received.

> *I feel treated unfairly. It was not right to fire me and I don't understand why workers' compensation has not sent me compensation for the time I had been off work. The whole experience was torture. First one thing, then another. It is so complicated.* **Sales Worker**

> *The system is so slow, especially when employers challenge the case or deny the worker was employed by them. The workers have to wait for payment and these are poor people.* **Community-based Organization**

> *It would be interesting to see who gets 90-day delay letters from insurance carriers. It is likely to be low-wage workers since they are the ones least likely to have the resources to fight a case.* **Community Legal Clinic**

Uninsured Employers or Unidentified Insurance Carriers. Workers who have uninsured employers or employers who refuse to tell them the name of their insurer face additional difficulties filing claims. Some workers believed that they were not entitled to file claims or receive medical treatment because their employers were not insured or did not carry insurance on all employees. Others had difficulty obtaining legal or medical help, in part because of the added complexity involved in obtaining the name of the insurer or filing a claim with the Uninsured Employers Fund if no insurer was found. The Workers' Compensation Insurance Rating Bureau (WCIRB), a nonprofit association of workers' compensation insurance companies, maintains a database of insurance carriers for all covered businesses in California. Obtaining the name of a company's insurer entails

completion of a form, an $8 fee, and a wait of up to 30 days. The WCIRB also requires certification that the requester is an employer, an insurance carrier, an injured worker or a licensed health care provider or attorney involved in a pending workers' compensation case.[90]

> *Often an employer doesn't carry insurance for all his employees. In one case, the employer had listed only 3 employees on insurance even though they had 50 employees. He told the [injured] janitor that he wasn't covered. The company didn't have any insurance on him so it was his [the worker's] problem. This type of thing is fairly common.* **Community-based Organization**

> *It is a major hassle to deal with the Uninsured Employers' Fund. It can be difficult to find private attorneys who will take these cases.* **Community Legal Clinic**

ASSISTANCE WITH FILING CLAIMS

Workers have trouble filing claims on their own. Among attorneys, community-based organizations, and legal agencies that serve these workers, there is consensus that low-wage workers usually require outside assistance to file workers' compensation cases. Many workers would not even attempt to file claims without assistance. As mentioned above, language difficulties and the complexity of the process were major difficulties for many workers, particularly non-English speakers. Workers also had problems understanding and fulfilling the legal requirements, knowing what to do if a claim was challenged or payment delayed by the insurance company, meeting deadlines and, ultimately, being able to obtain the full benefits to which they were entitled when they tried to pursue claims on their own. Though concern about fraudulent claims is often voiced in debates over workers' compensation, there was also a strong degree of unanimity among these respondents that frivolous claims were highly unlikely among this population. The complexity of the process and the difficulty in getting assistance made self-filing of even straightforward claims problematic.

> *We have these rights, but we don't really. There is no agency to help us and lawyers won't take our cases because they don't make enough money on them.* **Day Laborer**

Employers say they will take care of everything and then don't help the workers get all their benefits. The workers tell me, "My boss said don't worry, the company would take care of me." Then by the time the worker seeks legal help, it is often too late. **Private Attorney**

I didn't understand the system so I just waited to see what happened next. That was the hardest part. Not knowing. I didn't know what my rights were when my boss said I couldn't go back to work because he had already replaced me. So I didn't argue with him, I just left. **Garment Worker**

Workers would not include the full scope of their problem in the claim. If something got worse later, this would not appear as part of the injury. None of them could fill out the form accurately for a continuing injury or a repetitive stress injury. **Legal Self-help Clinic**

The workers here are unsophisticated. If they don't have an attorney, they settle for far less then their case is worth because they don't know better. **Private Attorney**

Filing frivolous claims is virtually unheard of in this population. People don't understand the system well enough to abuse it. They can only use it with an attorney's help. **Private Attorney**

Access to Private Attorneys. While agreement that legal assistance was essential for workers who wanted to file claims, there was disagreement about the availability of services from members of the private bar. Most private attorneys interviewed believed that legal services were readily available; workers and community-based organizations strongly disagreed. The latter groups claimed that private attorneys did not take the less severe cases, especially those involving medical treatment only, or ones in which damages were minimal. Workers with complex or contested cases, or cases in which documentation was missing (e.g., no paychecks or work records), were also likely to have difficulty finding an attorney to represent them on smaller cases. Access to private attorneys was also a problem in some rural areas or for workers who spoke less common languages.

We had two cases of people who had lost a testicle due to a workplace injury. Since this doesn't interfere with someone's ability to work, no damages are awarded. We couldn't find a private attorney to take these cases. **Community Legal Clinic**

The system is so complicated, an attorney is needed, but unless it is a big case with disability, etc., private attorneys aren't interested. These smaller cases about medical issues or a small amount of lost pay won't get taken. Also, when people don't have pay stubs or it is hard to prove that the employer is lying, attorneys don't want to take the cases because they are too much trouble for the amount of money involved. While it may be a small amount of money for the lawyer, it is a big amount for the workers who lose pay or get hospital bills they have to pay or can't get medical care. **Community-based Organization**

You have to pay for a process server and do a lot of detective work even to find out who the employer was. The worker will say, "His name was Joe." Under 132a, you only get reimbursed $250 max for discovery costs. **Community Legal Clinic**

Worker dissatisfaction with legal assistance. Even when the worker is able to get representation through a private attorney or a community legal clinic, the process can still be frustrating to them. The slowness of the process, no explanations, and the lack of attention to their concerns by busy attorneys and overworked legal clinics were frequent complaints. In several instances, workers complained about possible dishonesty on the part of the attorney who handled their cases.

If they do take a case, the attorney won't take the time to explain the process. He just says sign here, go to this doctor, and come back in three weeks. Won't take phone calls, etc. Workers are fearful of revealing personal information (due to immigration status) and don't know whether to trust the attorney. **Community-based Organization**

It is very slow, I complain to the attorney, and now she is upset with me because I call her so often. I keep saying order them to send me a check and send me to work or something, but I'm still waiting. My family is desperate for money. **Janitor**

The lawyer didn't even want to talk to me. They never returned my calls. When he finally did see me, he showed me a paper and said, "You sign this paper, you get some money. If you don't sign it, you get nothing." **Garment Worker**

I had seen a lawyer on television who advertised that he would handle workers' compensation so I called him. A year after [a serious] injury, I finally heard from him again. He told me to sign a paper for a $2000 settlement-- for a whole year's lost work." This is my life. Not some unimportant thing!" I told him. "What about my rights?" "You don't have any rights," the lawyer said. "Just sign this." Later I went to another attorney and he found out the first guy had been trying to keep most of the money for himself. **Garment Worker**

Other Resources. Most legal aid and community legal clinics generally refer workers' compensation cases to the private bar and do not handle these cases themselves. The growth of the underground economy, the growing recognition of the problem of workplace illnesses and injuries among low-wage workers and the sometimes limited legal resources available to these workers has led to greater concern about this issue. Several innovative programs have been started by community legal clinics in recent years to help low-wage workers pursue workers' compensation cases. Most focus on cases that the private bar won't accept or offer workshops or advice clinics to workers to help them file their own claims. Many bring language resources and experience in working with immigration issues that private attorneys may not possess.

A number of community-based worker organizations have also responded with programs to provide information about health and safety rights and to assist workers with filing claims. These organizations are known and trusted in the community and usually have the language, cultural, and outreach skills to serve their client populations effectively, all of which are particular strengths they bring to this problem.

Though health and safety has consistently been a priority issue for many unions, others, particularly those that organize in low-wage industries, are just beginning to focus more attention on workplace injuries and illnesses among their members and potential members. Thanks to increased funding for prosecuting uninsured employers, a few district attorney offices are also beginning to play a limited role in improving access for low-wage workers.

Having a place to go for help is an important factor in motivating people to report injuries. **Community Legal Clinic**

We usually see about 10 injured workers a week in our clinic and refer out about 7 of these cases each week. The cases we keep are the ones with merit, but that have no significant money involved or are difficult to tackle. **Community Legal Clinic**

In some instances, people are able to manage parts of their own case. They can get medical records, etc. We offer support and guidance to them in filing claims. **Community Legal Clinic**

We've talked to our district attorney about pursuing these cases. They say the problem is that there really isn't enough good information to pursue the case. So we are trying to figure out how to get good case information to them. **Community Legal Clinic**

We helped workers file between 400-500 wage and other claims in the last 3 years. We are just starting to look at how to help workers file workers' compensation claims. **Community-based Organization**

CHAPTER 4

PREVENTION EFFORTS IN LOW-WAGE INDUSTRIES: A CASE STUDY OF JANITORIAL FIRMS

INTRODUCTION

Many of the occupational injuries and illnesses experienced by low-wage workers are preventable. Simple measures, such as proper procedures, adequate training, the use of safe equipment and products, are often all that is necessary to avert serious injury and illness. Despite this, prevention efforts are minimal, if not entirely lacking, in many businesses that employ low-wage workers. Lack of knowledge, language barriers, cultural unfamiliarity, and limited research about some of these occupations contribute to inadequate prevention programs. Marginally profitable businesses, intense competition, the lack of health and safety inspections in many industries and the ready availability of a pool of workers who are easily exploited are equally important reasons for the absence of prevention efforts in some of these companies.

Photo by Jackie Chan

In this chapter, we report on a case study of janitorial firms that was conducted by the Occupational Health Branch of the California Department of Health Services (DHS) in 2003-04. [91] Though factors affecting prevention differ by industry, the economic stresses in the building maintenance industry and the workplace practices observed at the study sites are illustrative of the prevention problems described by low-wage workers in a variety of industries.

INDUSTRY CHARACTERISTICS

The cleaning and maintenance industry, one of the fastest growing industries in the United States, is projected to continuing increasing at a rapid rate. Corporate downsizing and the increasing reliance of businesses on outsourced cleaning services initially spurred the expansion. In more recent years, schools, hospitals and government agencies, traditionally employers of in-house janitorial staffs, have joined the outsourcing trend.

Outsourcing is often viewed as a prudent business decision by companies attempting to save money by using outside contractors but, not infrequently, these savings are gained at the expense of janitorial workers and legitimate building maintenance contractors. The opportunities presented by outsourcing, coupled with the ease of starting a janitorial firm, have resulted in the proliferation of many small janitorial firms and intense competition for contracts. Easily acquired skills and minimal capital are required to open a janitorial business. The business can be run from home with just a vehicle and a limited amount of equipment. Many small janitorial companies operate without business licenses or insurance and often violate wage and hour laws and health and safety requirements and are part of what is considered the underground economy.[92] With such artificially lower overhead costs, they are able to underbid legitimate building maintenance firms. According to the building maintenance firm owners interviewed by DHS investigators, competition from underground firms is especially keen over smaller contracts.

The growth in this industry has also led to increased subcontracting and franchising. Subcontractors usually are hired to provide specific services the primary contractor does not supply (e.g., window washing). But, in some instances, building maintenance companies will solicit cleaning contracts and then subcontract the basic janitorial work to another company for a lesser amount. In a franchise arrangement, the franchisee actually buys a franchise from a parent company. The parent company bids on contracts, usually with very low bids. If they are awarded the contract, they offer it to their franchisees for a lower amount and retain a share of the profit.

Number of Employers. Accurate data on the number of employers in this industry are not readily available. The U.S. Census Bureau 2002 Economic Census reports that there are 5,311 (contract) janitorial establishments (NAICS 56172) in California with annual receipts of $2.62 million and a payroll of $1.14 million.[93] Dun and Bradstreet list 9,943 janitorial contractors (SIC 7349) in California. [94] Neither of these numbers is likely to include all of the small or unlicensed contract janitorial businesses operating in the state. [95]

In addition to these contract janitorial firms, janitors are employed in a wide variety of industries. Nationally, only about 28 percent of the country's 2.3 million janitors and cleaners (a category that excludes maids and housekeepers) worked for firms supplying building maintenance services on a contract basis. Another 21 percent were employed in educational institutions, and 2 percent worked in hotels. Other employers included hospitals, restaurants, religious institutions, manufacturing firms, government agencies, and operators of apartment buildings, office buildings, and other types of real estate.[96] While proportions may vary by industry, these industries are all employers of janitors in California.

Number of Janitors, Wages and Unionization. According to the most recent data from the U.S. Bureau of Labor Statistics, 209,770 workers were employed as janitors and cleaners (excluding maids and housekeeping cleaners) in California. [97] These workers received a median hourly income of $9.68 and a mean annual income of $22,620. Starting wages averaged $7.60 per hour.[98] Some janitors, particularly those working for large building maintenance contractors and government employers, are unionized.[99] Wages for this group tend to be slightly higher and most receive some workplace benefits, primarily health insurance and leave days.

Wages for workers in the underground economy are likely to be substantially less. For workers employed by these businesses, wages paid in cash, frequently at rates less than the minimum wage, nonpayment of overtime wages, and lack of benefits are common. In 1998, the California State Employment Development Department's (EDD) Underground Economy

Operations started auditing janitorial businesses for unpaid employment taxes. Assembly Bill 613 (Chapter 299, Statute of 1999) later mandated the inclusion of janitorial and building maintenance as a target industry for ongoing investigation by the Joint Enforcement Strike Force on the Underground Economy. Between 1998 and 2003, 211 janitorial businesses were audited and assessed $15,273,344 in unpaid employment taxes plus penalty and interest charges.[100] During these audits, 9,019 unreported employees were discovered. While many of these violations were due to fraud, investigators also reported finding unintentional noncompliance, mostly in cases where employers honestly believe their janitorial employees to be legitimate independent contractors.

Despite such accomplishments, some observers believe current enforcement efforts identify only a small fraction of the violations occurring in California's building maintenance industry. A significant obstacle, according to investigators, is that workers in this industry are afraid of speaking up against employers for fear of being fired or deported. Many do not know their rights or where to go for help or medical care. Even with assistance, it is difficult to file claims against employers who frequently do not have regular offices, operate their businesses by cell phone and do not carry workers' compensation insurance. [101] Investigators point out that there are also barriers to educating employers in this industry, many of whom are immigrants themselves and may come from countries where traditional work practices differ significantly from those in the United States. Some cannot speak or read English, making it difficult for them to comply with complex requirements. [102]

Turnover and Temporary Employment. There is high worker turnover in the cleaning and maintenance industry due to low wages, lack of benefits, limited opportunities for training or advancement, and high incidence of part-time or temporary work. Many companies only employ part-time workers. Janitors will often have more than one job, for example, a full-time day job and a part-time night job. There is also an increasing trend to use "dispensable" workers (i.e., hiring day laborers from street corners for short-term janitorial work.) Finding and retaining workers (especially workers who are in the U.S. legally) remains a major problem according to industry sources who report turnover rates at

up to 200%.[103] This factor has obvious repercussions for health and safety in the industry since having well-trained staff is an important component in preventing injuries and illnesses.

HEALTH AND SAFETY RISK FACTORS FOR JANITORS

The Bureau of Labor Statistics lists janitors and cleaners as one of the ten occupations with the highest number of nonfatal occupational injuries and illnesses involving days away from work. Nationally, 25% of the 35,600 cases reported in 2003 involved more than 31 days off work, while over 74% involved more than three days absence from work.[104] Males (71.5%), workers between the ages of 35 and 54 years of age (51.7%) and white workers (37.9%) report the most injuries. Sprains and strains (46.7%) were the most common injury reported. Overexertion (29.5%) followed by contact with object or equipment (24.1%) and falls (22.8%) were cited as the leading causes for reported injuries and illnesses. Non-acute injuries, illnesses due to chemical and infectious disease exposures and musculoskeletal disorders resulting from repetitive work, were less frequently mentioned. Given the potential hazards in this industry and the nature of the workforce, this may reflect underreporting rather than a lack of risk.

Leading Health Hazards for Janitors. Janitorial work involves health and safety risks primarily from chemicals, ergonomic hazards, safety problems and exposures to infectious diseases. Existing research on health hazards specifically for janitorial workers is very limited, despite the fact that it is among the occupations that consistently rank high on lists of job-related diseases, including heart attacks, cancer, dermatitis and musculoskeletal disorders.[105] Little attention has been paid by researchers to developing engineering and other controls that could reduce hazards.

Chemical Hazards. Many varieties of cleaning products are available to the cleaning industry and large amounts of these chemicals are used each year. An industry survey of

sanitary supply distributor sales estimated that over $7.6 million was spent on janitorial chemicals in 2002.[106] According to the Western Regional Pollution Prevention Network (WRPPN), one third of the cleaning chemicals used today have ingredients that are hazardous to both human health and the environment.[107] Hazardous chemicals may be found in product additives (e.g., corrosion inhibitors, fragrances, dyes, preservatives) as well as the active ingredients.[108] Active ingredients such as disinfectants contain compounds that cause dermatitis, asthma, burns to skin and eyes, and reproductive problems. Detergents can lead to skin problems, widely reported among cleaners. Preservatives, an additive, are often sensitizers and in some cases are carcinogens (e.g., formaldehyde, a commonly used preservative, is both a sensitizer and probable carcinogen). Fragrances and perfumes can act as triggers for asthma, allergies and migraine headaches[109].

Researchers at the WRPPN estimated that six out of 100 janitors are injured each year by chemical exposures, primarily causing burns to the skin and eyes and breathing problems. They calculated that medical expenses and lost time resulting from these injuries nationwide could be costing $75 million annually.[110]

Work-related asthma is also of concern for janitorial workers. Based on data gathered from 1993 to 2003, the California Work-Related Asthma Surveillance Program found that the rate of asthma cases among janitors was 4.1 per 100,000 workers, twice the overall occupational rate of 2.1 cases per 100,000 workers.[111] Exposure to chemicals, dust and other substances in the workplace appeared to be important triggers.

Ergonomic Hazards. A study of 5000 janitors in England found that approximately 20% had been absent from work during the previous year as a result of aches and pains and 52% had sought medical advice for these problems.[112] This was a higher-than-expected prevalence rate of pain and discomfort. The study also found elevated rates of potential Hand Arm Vibration Syndrome (HAVS) symptoms from using cleaning machines.

While, to our knowledge, no systematic research has been done on ergonomic issues in the janitorial industry in the United States, several articles discuss high rates of back pain and

other musculoskeletal disorders among janitors.[113, 114] DIR has recently published a training guide and a series of posters produced by Cal/OSHA that cover common ergonomic and other hazards in the industry.[115]

Safety Hazards. Safety is also a significant problem in janitorial work, especially since janitors work alone in the middle of the night, and at times operate heavy equipment. Abdominal injuries from operating floor machines, slipping on wet floors or spills, electrocution from using wet equipment on wet floors, falls from climbing up ladders or on other furniture and tripping over cords, loose mats and uneven walking surfaces have all been reported. Janitors often work alone and unsupervised in the evening hours and may never see their employers and co-workers. Since they are often the only people in a building after hours, they are also at risk of being robbed or mistaken for burglars.

Infectious Diseases. Janitors who work at non-healthcare facilities can sometimes be exposed to body fluids, vomit, sanitary napkins and used needles and razor blades in bathrooms.[116] Janitors who work at healthcare facilities may be at risk of contracting infectious diseases through exposure to used needles, first aid equipment, sharps containers and medical/dental utensils that have been contaminated with blood or body fluids carrying organisms that cause AIDS, hepatitis or other illnesses.

SITE REVIEW OF JANITORIAL WORKPLACES

As part of this study, a DHS contract industrial hygienist conducted site visits at 10 San Francisco Bay Area janitorial companies to identify risk factors and to assess prevention practices. Data were collected by observation, videotaping (for later analysis), from program materials and by formal interviews with employers and workers. The findings, discussed below, underscore the many challenges to achieving healthy and safe working conditions for janitors in California.

Methodology

Sample selection. A semi-stratified convenience sample of ten San Francisco Bay Area contract janitorial companies was selected for the site visits. Seven small janitorial companies (< 50 workers) were randomly selected from the Dun and Bradstreet business database under Standard Industrial Classification 7349).[117, 118] Supermarkets were selected using the telephone yellow pages and were asked to provide contact information for their janitorial contractors. Internet listings were used to identify dialysis clinics (chosen because of the representative risk factors likely to be found in this type of facility) and were similarly asked to provide information about their janitorial contractor. The one large company included in the sample volunteered to participate. A total of 55 contractors were contacted. Four attempts were made to reach each contractor. Forty-six effectively refused participation (by delaying, not returning calls or direct refusal) and were excluded from the sample. The final sample of companies participating in the site visits provided janitorial services at four office buildings, a school, a laboratory, a condominium complex, a supermarket, a dialysis clinic and an automobile-manufacturing plant.

Data Collection. Worksite data were collected through observations and videotaping of representative cleaning tasks at nine worksites (one company denied permission to videotape or photograph the work areas and workers). Videotapes were used to analyze ergonomic risk factors such as duration, posture, speed, repetition and work organization of tasks. Program materials, such as materials safety data sheets (MSDSs) and safety policies, were collected when available. When MSDSs were not available, product names were recorded and MSDSs were obtained directly from the manufacturer.

Interviews. Formal interviews using questionnaires were conducted with 12 workers, 10 employers and one trade organization. The other workers at these work sites declined to be interviewed. One company denied us permission to interview the workers. Workers who were interviewed were predominately male (75%), Latino (92%), and foreign-born (83%). One-half had lived in the U.S. less than six years. Two-thirds did not speak English "very well." Workers were interviewed privately either at the worksite or over the phone

depending on worker preference. Workers who agreed to be interviewed were paid ten dollars for their time. All employer interviews were conducted in person. Interviews with Spanish-speakers (both workers and employers) were conducted by a Spanish-speaking interviewer.

Consent Procedure. Employers contacted to participate in the study were sent a letter explaining the project and the California Department of Health Services' authority to enter worksites. Workers who agreed to participate in the interviews and videotaping signed consent forms. All interview protocols and consent forms were available in both Spanish and English.

Supplementary information. Additional information was gathered through informal conversations with Division of Labor Standards Enforcement personnel familiar with the industry, and from a vocational education instructor and eight manufacturers or distributors of janitorial products and equipment.

Data Limitations. Worksites visited during this study were chosen from a convenience sample of employers who agreed to participate. Workplaces with poor working conditions may have been more likely to refuse participation or may not have been listed in the Dun and Bradstreet database, the telephone yellow pages or on the internet. [119] As a consequence, the findings from this study may underestimate the hazards faced by janitors. Additionally, only a limited number of sites in a single geographic region were visited, all but one of which were small employers. This may further restrict the applicability of the findings. Though a variety of facilities were included in the study, the study focused on contract janitorial services and the findings may not be characteristic of in-house janitorial departments or of the wide variety of different types of facilities which employ janitorial services. Specialized tasks such as carpet and window cleaning were not included in the site review and, as such, the results are not representative of the range and complexity of janitorial tasks. Finally, there is no way to determine if differences existed between workers who participated in the interviews and those who refused.

Findings

Hours, Shifts and Benefits. Janitors worked all three shifts with the majority of the shifts being swing and graveyard. Workers at four companies worked alone and the rest worked in teams of two or more people. Most workers were employed part time (less than five hours per day or less than five days per week). Three of the 12 workers interviewed reported vacation or sick leave benefits. None received health, retirement or other similar benefits. All but one company stated that they carried workers' compensation insurance.

Range of Work Tasks. Work tasks were extremely varied at the sites visited. In part, this was governed by the type of facility cleaned. Some janitors only did cleaning, while others had a wider range of duties including simple plumbing, emptying trashcans, painting and carpentry, replenishing bathroom supplies, mowing lawns and maintaining heating and air-conditioning equipment. Special cleaning requirements were also noted at the health care and manufacturing sites.

Janitors often work evening shifts alone or in small teams.
Photo by Wendy Corr.

Chemical Exposure.

Types of Cleaning Products Used. The cleaning products used at the nine worksites that provided this information fell into two groups: surface cleaners (glass, restrooms, metals, kitchens, floors--including strippers, finishes, furniture), and disinfectants for bathrooms and health care facilities.

Patterns of Chemical Usage. Many cleaning chemicals were used on a daily basis except for floor-care products (e.g., strippers, finishers) which may be used once or twice per month depending on foot traffic. The amount of chemicals used was related to the size of the workplace. No formal spill procedures were in place.

Ventilation. Janitors were observed cleaning in areas with reduced ventilation such as in narrow stairways, inside toilet stalls and in elevators. Workers at the grocery store used fans during floor stripping. No local exhaust ventilation was used.

Health Risks. Review of the MSDSs for the products being used found a variety of potential adverse health risks. These included mild to severe irritation, burns to the eyes or skin (in some cases with a risk of permanent damage) and damage and chronic illnesses in the liver, kidney, blood and reproductive system and potential fetal defects. Using the WRPPN rating scale,[120] products were categorized as follows:

Figure 2. Western Regional Pollution Prevention Network (WRPPN) Categories for Cleaning Products.

WRPPN Category	Products
1: Ingredients to Avoid	0
2: Avoid if Possible- Otherwise Use with Extreme Care	4
3: Ingredients to Use With Extreme Care	5
4: Ingredients to Use With Ordinary Care	8

Product Selection Decisions. Owners reported that they chose cleaning products on the basis of effectiveness, cost, and environmental benefits. Safety and health were the last concerns listed. Products were purchased from janitorial supply companies, safety supply stores, hardware stores, or wholesale warehouses.

Personal Protective Equipment (PPE). Eight companies provided personal protective gear for workers consisting of latex gloves and, in several cases, safety goggles and dust masks. The clinic site also provided surgical masks, back braces and plastic aprons. Only one owner provided neoprene gloves in addition to latex gloves. Workers were observed either using no PPE or the wrong type of PPE when working with cleaning products.

Because spray bottles and aerosol cans were often used to dispense chemicals while cleaning, there was a high potential for splashes of hazardous chemicals to the eyes. Workers who were provided with eye protection often did not wear it due to discomfort

or obstruction of vision. Many buildings, especially commercial office buildings, did not have eyewashes.

Ergonomic Risk Factors.

The major risk factors observed at site visits and through analysis of videotapes included:

Speed, Duration and Repetition. Observation and analysis of videotape data found that the work was generally fast-paced and highly repetitive. Most tasks were completed in 15 minutes (cleaning a bathroom) or less (emptying a trashcan), but some tasks took up to one or more hours (e.g., floor stripping/buffing/finishing). Many tasks were repeated for every room and performed daily—cleaning windows, bathrooms, floors, workstation surfaces, ceiling fixtures, vacuuming and emptying trash. Repetition of tasks ranged from minutes (emptying trash) to weeks (e.g., shampooing carpets, stripping floors). The infrequent tasks were usually of longer duration and involved heavier work such as moving furniture.

Awkward Postures. Examples of awkward postures observed included *reaching*: cleaning mirrors and windows, dusting high surfaces such as bookshelves; *non-neutral wrists:* cleaning toilets, scrubbing; *bent neck*: mopping, vacuuming; *raised shoulders*: mopping with elbows away from the body; *stooping/bending*: cleaning baseboards, cleaning toilets; and *twisting*: mopping and vacuuming around furniture.

Strong Force. Janitors were observed using *strong force* during scrubbing, cleaning

Product Purchases Are Heavily Influenced by Industry Sources

The vast number of choices for cleaning products, equipment and protective gear can be confusing to many employers, especially small companies with limited health and safety knowledge and resources. According to a 2003 industry report[121], employers rely heavily on industry sources for information. The top sources for cleaning and maintenance information are industry magazines (82%), distributors (47%), internet (44%), peers (33%), industry associations (24%), manufacturers (19%), mainstream business magazines (18%), trade shows (15%), industry consultants (11%) and general business consultants (7%). Factors influencing product selection included the availability of 800 numbers for tech support (57%), cash back or sales discounts (56%), samples or trial period (47%) and manufacturer warranty (42%).

windows or glass and while *wringing* mop heads, removing floor stains with a mop and operating large equipment. They also often *lifted, lowered and carried* objects such as garbage and recycling bins, backpack and upright vacuums, full mop buckets and furniture. They were also observed *pushing and pulling* carts of supplies.

Equipment. Most companies were still using traditional cleaning tools (e.g., brooms, mops) despite the fact that ergonomic equipment is now widely advertised and available.

Infectious Diseases

Based on interview data, some janitors reported exposure to vomit, sanitary napkins and used needles and razor blades in bathrooms. Janitors who work at healthcare facilities have a much greater risk of being exposed to infectious diseases. Although the workers who cleaned the dialysis clinic in this study did not have to clean dialysis chairs and machines (these tasks were done by nurses), they were responsible for disinfecting the surfaces of sharps containers and bathrooms where dialysis patients sometimes vomit or bleed.

Janitors at health clinics may be exposed to bloodborne pathogens and other infectious diseases. Photo by Jackie Chan.

Illness and Injury Prevention Programs.

With the exception of the one large company, none of the companies visited had Illness Injury and Prevention Programs (IIPP) as required by California law (California Code of Regulations, Title 8, Section 3203).

Although workers used cleaning products with hazardous ingredients on a daily basis, none of the nine small companies had adequate hazard communication (California Code of Regulations, Title 8, Section 5194) programs. Workers were not trained according to Title 8, Section 3380, Cal/OSHA's standard for protective devices.

The companies with more than ten employees did not keep occupational injury and illness records, also required by law. (California Code of Regulations, Title 8, Section 14300).

Worksite Health and Safety Programs

The adequacy of health and safety training programs was assessed through interviews with employers and workers. At the small worksites, two-thirds of the workers interviewed reported that they received some health and safety training. The overall quality of the training, however, appeared to be inadequate, inconsistent and infrequent. There were no written programs or policies in place to formalize training content and process. Training was conducted by owners who themselves had inadequate knowledge of health and safety, and who mostly obtained their knowledge from janitor supply stores and distributors. Most of the training consisted of brief on-the-job meetings. Minimal educational materials were provided to the workers.

Some companies had written safety policies but there were no regular safety meetings to reinforce concepts of safety. Only one of the janitors interviewed had been trained to read MSDSs. Except for brief training on lifting techniques, none of the nine small companies had adequate ergonomics programs. Training on infectious diseases, required by Cal/OSHA (California Code of Regulations, Title 8, Section 5193-Bloodborne Pathogens), was often not included for janitors in the non-health care facilities, even though exposure to potentially infectious substances such as sanitary napkins and used needles in restrooms was a risk factor in their jobs.

Barriers to Occupational Health and Safety In The Janitorial Industry

Employers cited a variety of barriers to implementing health and safety programs for their workforces. These included time limitations, high worker turnover which made cohesive training difficult, language barriers, difficulty getting workers to follow instructions provided by training, no location available for training (since employers often have no offices), not being aware that health and safety problems exist, not having financial resources, and not knowing where to go for help.

The complex layer of relationships that exists in the industry because of outsourcing, subcontracting and franchising can also present challenges. When responsibility for prevention programs is unclear, misunderstandings, miscommunications, or the tendency to redirect responsibility can occur in these multi-employer settings. The intense competition for janitorial contracts and the slim profit margins for many small contractors may make injury and illness prevention a low priority for owners reluctant to take time away from work tasks for training purposes or to require safer, but more time-consuming working processes. Thirdly, the array of products available and the complexity of information resources are potentially confusing, especially for contractors who may have limited education and English capabilities.

The janitorial industry is an old industry that is often resistant to change. In recent years, however, far more attention has been paid to the topic of janitorial chemicals by nonprofit, industry, union and government groups, in part due to consumer and environmental concern about personal exposure and the impact of chemicals on the environment. Development of safer products, the promotion of a "Green Seal" certification program[122,] and greater awareness may lead to far greater availability of safe products in the future. An increasing interest in marketing and promoting green products and ergonomic equipment among manufacturers and trade associations is also evident in the literature and on their websites. Because the industry is so heavily influenced by these groups, a focus on better products may eventually help to upgrade conditions in the industry.

Union janitors testing green seal-certified products at a UCSF community occupational health project event cosponsored by Service Employees International Union, Local 1877. *Photo by Nan Lashuay.*

Health and safety concerns that are tied to heavy workloads, speed and lack of training or prevention programs, however, are unlikely to be mitigated without better education, enforcement, and regulation of the industry. The lack of research about health risks for janitors and the effectiveness of engineering controls or other prevention measures also hamper progress.

CHAPTER 5

ACCESS TO MEDICAL CARE

Access to appropriate medical care was one of the most important issues raised by workers and agency staff interviewed. As discussed in Chapter 3, workers who had seen a provider for a work-related medical problem most frequently mentioned being treated by employer-designated doctors and nurses or being taken to an emergency department for acute injuries. A few described being sent to doctors by workers' compensation lawyers or visiting health care providers whom they had seen advertising services for work-related injuries on television. Chiropractors were the most commonly mentioned providers consulted because of advertising.

When asked where they would go for care if it were needed, the few workers with health insurance said they would consult their private doctor or HMO. Some uninsured workers said they would seek care from a community or public clinic or a private physician who served their community and spoke the same language. But many did not know where they could obtain assistance and a few related the experience of being turned down for care at their primary care clinic or physician's office because their condition was work-related.

> *Appropriate medical care is not readily available. Usually these patients go to chiropractors or the county medical center, which does not do a good occupational health history. Sometimes the chiropractors overcharge or don't provide appropriate care but they are the ones who will take the patients on lien.* **Private Attorney**

> *Most health care workers don't know what to do about workplace injuries. So, if the workers rely on them, they are not much help.* **Community-based Organization**

COMMUNITY AND PUBLIC CLINICS

California's low-income and uninsured residents obtain most of their health care at one of more than 700 nonprofit community-based clinics operating in rural and urban communities or at the multiple primary care and specialty clinics managed by the state's public hospitals, public health care systems and academic medical centers.[123,124] Only 17 of the state's counties operate public facilities, but these are the counties in which 88% of California's population resides. Together, public and nonprofit facilities provide nearly 20 million outpatient visits annually.

The pattern of service delivery varies considerably by county. A common arrangement is for the public clinics to deliver most of the medical care to the medically indigent and to provide hospital and specialty clinic services. Some counties contract with local hospitals and clinics to provide indigent services. Community-based clinics are more likely to provide neighborhood-based services and often have language and cultural skills oriented toward specific ethnic populations. Statewide, approximately 44% of community clinic patients claim English as their second language.[125]

The ability to provide care in the worker's primary language is crucially important. Equally important is understanding the worker's culture, ways of describing and understanding illness and specific workplace concerns. Depending on their country of origin and whether they come from a rural or urban setting, some immigrant workers may never have had contact with a doctor or nurse. Others are completely unfamiliar with Western medicine and are unable to describe their symptoms in the manner comprehensible to Western-trained providers. Some are concerned about their immigration status and are fearful of using services.

> *When [immigrant workers] are asked what is numb, they will say their whole leg or describe an impossible pattern of numbness. It sounds like an exaggeration or hysteria when it is likely to be their lack of understanding of how to describe symptoms. Latino doctors will recognize this and help people to clarify what they mean, but other doctors may think it is an attempt at malingering.* **Private Attorney**

These workers also don't know how to describe or classify the severity of pain. Using a 1-10 scale is completely strange to them. **Private Attorney**

Another factor is that Latinos tend not to get preventive care and often wait until the situation is extreme and then go to the emergency room. Many believe medical care is for emergencies only. **Community-based Organization**

SURVEY OF PUBLIC AND COMMUNITY HEALTH CLINICS

As part of this report, a small random sample of public and community health clinics was selected statewide and repeated attempts were made to interview medical directors about occupational health services at their facilities. Contact was made initially by telephone and, when this proved ineffective, repeated follow-up attempts were made with a written survey using fax, mail and repeated telephone reminders to encourage completion. Of the 28 facilities initially selected, 11 eventually participated in the survey, for a response rate of 39%. All respondents were community-based clinics. The public facilities included in the random sample did not respond to the survey or requests for an interview. Based on a review of the responses, it is possible that the final sample is biased toward facilities that are more likely to recognize or treat occupational health problems and thus were more willing to respond to this survey.

Location and types of patients served. Five Southern California clinics, three Northern California clinics, and three Central Valley facilities responded to the survey. These clinics reported that they served workers in multiple occupations. Over half of the clinics had farmworkers (55%) or packinghouse workers (18%) among their clients. Construction workers (36%), restaurant and fast food workers (36%) were the next most frequently reported occupations, followed by gardeners, garment workers, home health aides, sales workers, laborer, janitors and domestic workers.

Table 6. Community Clinic Survey of Occupational Health Practices and Needs

Geographic area served:	45% Southern CA; 27% Northern CA; 27% Central Valley
Most frequent occupations reported:	Farm work (55%); construction (36%); restaurant/fast food (36%); gardening (18%); packing house (18%); garment, home health, sales, general labor, janitorial, domestic work (9%)
Most frequent work-related conditions diagnosed:	Back injuries (64%); other musculoskeletal problems (64%); cuts, lacerations (27%); pesticide exposure (18%); asthma, dermatitis, eye injuries, headaches (9%)
Occupation asked at initial visit?	82% yes
Occupation asked at follow-up visit?	18% yes; 55% "sometimes"
Routine screening for work-related causes (e.g. for asthma, MSDs or dermatitis)?	Yes (55%)
Have treatment guidelines for work-related conditions?	Yes (27%)
Have protocol for workers' compensation cases?	Yes (27%)
File DFR if condition determined to be work-related?	75%-100% of the time (45%); 50%-75% of the time (9%) < 50% of the time (36%)
Reasons for not filing/difficulty filing DFRs:	Patients fear reprisals (45%) Patient not covered by workers comp (45%) Difficulty obtaining insurance information (45%) Employer denies injury occurred or retaliates (18%)
Treat work-related cases at the clinic?	Sometimes or usually (55%) Refer (27%)
Specific provider(s) assigned to work-related cases?	Yes (9%)
Refer work-related cases to...	Occupational medicine specialist (36%) Other medical specialist (27%) Chiropractor (18%) Other (36%)

(N=11)

Screening for occupationally related diseases. A basic step in providing occupational health care is identifying the patient's occupation, something that is not routinely done by many health care providers. Most of the clinics surveyed asked occupation on their initial intake forms (82%), but far fewer routinely asked about the patient's occupation on follow-up visits (18%). Over half asked the patient's current occupation only "sometimes" (55%). Screening for occupationally related causes of disorders that are frequently related to workplace exposures (e.g., asthma, musculoskeletal disorders or dermatitis) was also not routinely performed (55%).

> *Sometimes patients with horrible diseases will ask if it is related to their job. Thinking to be helpful the doctor, they will say don't even worry about that...you can't change the past. Maybe not, but it is the person's right to know and it could change the workplace.* **Community-based Organization**

Model Approach: A Health Care Partnership for Restaurant Workers

Since the spring of 2001, the Korean Immigrant Workers Association (KIWA) in Los Angeles has been collaborating with La Clinica Monsenor Oscar A. Romero, a nearby non-profit community health clinic, in a program designed to improve access to affordable quality healthcare for Korean-speaking restaurant workers. Due to language, economic and time barriers, these workers are often unable to find adequate medical care. At the weekly clinic, a bilingual physician provides free medical care for patients referred though KIWA and the Restaurant Workers Association of Koreatown. A full-time bilingual case manager is on site to help patients set up future appointments, process paperwork and arrange follow-up care and specialist referrals.

The clinic offers care for work-related injuries and illnesses. They also treat primary care complaints and provide long-term management for patients with chronic medical conditions such as diabetes, arthritis, high blood pressure, and high cholesterol. Though small, the clinic fills an important niche for a population of workers who would otherwise have little access to care.

Treatment of work-related cases. The most frequently diagnosed work-related conditions reported were back injuries (64%) and other musculoskeletal problems (64%), followed by cuts and lacerations (27%). Pesticide exposure, asthma, dermatitis, eye injuries and headaches were also mentioned. Over half of the clinics "usually" or "sometimes" treated work-related conditions at their facility, but only one had a specific provider assigned to work-related cases and very few had treatment guidelines established for work-related conditions (27%). Patient referrals were made to occupational medicine specialists (36%), other medical specialists (27%), chiropractors (18%) and other health providers or services (e.g., physical therapy) (36%). Finding appropriately skilled clinicians for referrals was cited as a problem by several respondents.

Compliance with workers' compensation requirements. Only 27% of respondents said their clinic had an established protocol for treating workers' compensation cases. Slightly less than half reported that they routinely filed Doctor's First Reports of Occupational Injury or Illness (DFRs) when they diagnosed work-related conditions. The reasons given for not filing DFRs included patient fear of reprisals if injuries or illnesses were reported to their employers (45%), patients who were not covered by workers' compensation, e.g., cash pay or short-term workers (45%), difficulty obtaining insurance information (45%) and employers who denied the injury occurred at their site or provided inaccurate information (18%).

Problems dealing with workers' compensation insurance carriers were frequently mentioned. They included problems getting information from the carriers, delays in accepting cases, difficulty getting authorization for needed specialist referrals or trouble getting payment for services provided by the clinic. Several mentioned that this interfered with the management of patients who were reluctant to pursue care for fear that they would have to pay for it themselves.

Model Approach:

Agricultural Workers' Access to Health Care Project

Photo by Rupali Das

One of the more innovative workers' health programs in California combines clinical services with legal support, outreach and education. Founded by the Watsonville Law Center (WLC), in collaboration with Salud Para La Gente and California Rural Legal Assistance (CRLA), the Agricultural Workers' Access to Health Care Project targets agricultural workers in the central coast counties of Santa Cruz, Monterey and San Benito. The agencies formed their collaboration in response to the results of a local survey, which found a 40% injury rate among farmworkers (compared to a reported rate of 8%). The survey also revealed that an alarming number of injured workers were not getting medical care or workers' compensation benefits. With initial funding from The California Endowment, the project was designed to address both the medical and legal needs of injured workers. Outreach workers from CRLA and Salud Para La Gente now educate agricultural workers about their rights under the workers' compensation system and workplace injury and illness treatment and prevention.

Salud Para La Gente provides clinical care to injured workers and trains local health care providers about agricultural work injury and illness diagnosis and treatment. The WLC provides free legal aid and referrals to injured agricultural workers through the project. In representing injured workers who cannot afford an attorney, WLC encounters uninsured employers at least 30% of the time. The project promotes coordinated enforcement efforts with local district attorneys and the Department of Insurance to combat employer fraud.

Table 7. Community Clinic Provider Training Needs

Do providers have formal training in occupational health?	Informal, self-taught (45%) Continuing education credits (18%) Graduate education (9%) Board certification (9%)
Do providers have adequate training in occupational health?	Less than adequate (82%) Adequate (18%) More than adequate (0%)
Would more training be useful?	Yes (91%)
Topics of interest:	Occupational health issues (36%) Workers' compensation laws and procedures (27%)
Preferred method of training:	In-service training (64%) Written materials (55%) Web-based learning (36%) Distance learning class (27%)

Training needs. Training in occupational medicine or nursing was very limited. Only two facilities reported personnel with board certification or graduate training in occupational medicine or nursing. A few had staff that had attended continuing education programs on occupational health issues (18%). Most reported that their training had been informal or "self-taught" (45%). The vast majority believed that the training their providers had in occupational health was less than adequate (82%) and that more training would be useful (91%). The leading topics of interest were clinical issues in occupational health (36%) and workers' compensation laws and procedures (27%). Providing this information through in-service training was the most popular method of delivery (64%), followed by written materials (55%), web-based learning (36%) and distance learning classes (27%).

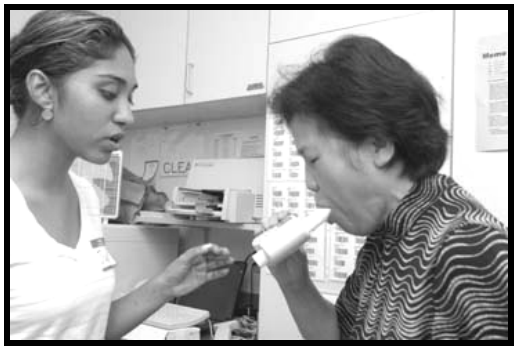
> *The information that is distributed is the same old stuff all the time. The medical information to community physicians isn't good enough and doesn't talk about these exposures and their relationship to work. A lot of physicians don't even realize that occupational medicine is a specialty area.* **Community-based Organization**

Surveillance. Though surveillance issues were not covered in this study due to funding cutbacks, this remains a crucial issue. As was pointed out by several respondents, there is no effective way to identify series of cases (e.g., cancers) that may be occurring in certain

industries, geographic localities or specific workplaces. The information that does exist is either not publicly reported (e.g., information from workers' compensation carriers), not routinely collected (e.g., emergency room statistics), reported only at the statewide level (e.g., standard illness or injury data) or aggregated in a way that does not facilitate tracking and prevention efforts (such as Cal/OSHA enforcement statistics). This aggregate data does not facilitate tracking or prevention efforts at the local level. Without data and effective tracking mechanisms, prevention efforts are unlikely to succeed.

> *You could have 25 breast cancers from the same place and no one listens.* **Community-based Organization**
>
> *How can we stop sweatshop conditions in our county or help small businesses prevent injuries without information about who is getting injured and where? The workers suffer, the taxpayers end up paying the bill and the companies who are trying to do the right thing lose out to the scofflaws that benefit from this secrecy and lack of enforcement.* **Community-based Organization**

Model Approach: UCSF Community Occupational Health Project



COHP staff conduct spirometry testing at screening clinic for electronic workers exposed to gallium arsenide.

The UCSF Community Occupational Health Project (COHP) provides free screening clinics, including diagnostic, basic treatment and referral services for low-wage workers in partnership with community organizations or local unions. The screening clinics, which are held with groups of workers from the same industry, enable the identification of persistent health and safety problems in a particular workforce. In addition to assisting individual workers with their health needs and access to care, these screening clinics have led to the development of significant research, education and other prevention projects. Screening clinics have been completed or are underway with garment workers, janitors, nail salon workers, day laborers, hotel workers, electronic workers and others. Companion projects, in partnership with community organizations, regularly incorporate worker leadership committees, popular education techniques, peer health promotion and participatory research strategies.

CHAPTER 6

RECOMMENDATIONS

Achieving safe workplaces and access to adequate occupational health care for low-wage workers requires far more attention to the problems identified in this report than is currently being paid. More investment and creative effort are needed in the areas of enforcement, outreach and information, language access, prevention and incentives, research on practical solutions for health and safety problems in these industries, access to occupational health services for low-wage workers and effective surveillance.

There is substantial consensus about what needs to be done. A report prepared by the California Working Immigrant Safety and Health (WISH) Coalition in 2002 contains the most comprehensive list of recommendations developed by community-based organizations and others knowledgeable about the working conditions and access barriers for low-wage workers.[126] Other recent reports by the UCLA Labor Occupational Safety and Health Program[127], the Center for Community Change[128] and WORKSAFE!,[129] among others, echo many of these concerns and include additional proposals of their own. Respondents in this study made similar recommendations as well.

Unfortunately, most of the recommended solutions are costly. Many will require careful effort to implement successfully. Enforcing regulations and providing services to workers employed in the underground economy, particularly undocumented workers, can be exceptionally challenging. At times, measures intended to help can inadvertently cause additional hardships for these workers (e.g., loss of pay due to an inspection); such impacts therefore need to be assessed. A further complicating factor is uncertainty about how the recent SB 899 reform measures will affect low-wage workers once they are actually implemented.[130]

Despite these difficulties, steps must be taken now to correct substandard conditions, illegal practices and inadequate occupational health care for low-wage workers. Maintaining the status quo rewards employers who do not provide safe working conditions and unjustly punishes injured workers, their families, the taxpayers and legitimate businesses. In addition to the human costs borne by low-wage workers, the long-term impact of these practices is to downgrade conditions for all workers, shift costs to primary health care insurers and the public health care system and drive California's conscientious small employers out of business.

The list of recommendations that follows has been derived from the interviews and from the other reports and studies cited above. It is intended as a "short list" focusing on what appear to be the most pertinent and feasible recommendations. Nevertheless, it is not intended to exclude other important proposals that are contained in the WISH document or other reports.

INCREASED ENFORCEMENT

Increase in inspections of health and safety conditions in target industries.

Study respondents generally consider increased enforcement of target industries to be the most important remedy the state could adopt to improve conditions for low-wage workers. A regular schedule either of unannounced inspections by Cal/OSHA or periodic inspections or "sweeps" in specific geographic locations were considered effective means of increasing compliance in target industries.[i] Several respondents noted that even a limited number of well-publicized inspections could have an important deterrent effect on other businesses. This claim is substantiated by Federal Department of Labor statistics, which show

[i] As discussed in Chapter 2, the industries that the California Joint Enforcement Strike Force (JESF) identified as having the highest number of problem businesses include garment manufacturing, janitorial and building maintenance, agriculture, construction, automotive repair, landscape maintenance, restaurant and bars, car washes, bakeries and some small manufacturing industries.

impressive gains in wage-and-hour compliance in the garment industry following a compliance campaign.[131]

As the WISH coalition report notes, the Cal/OSHA program has well under the minimum number of inspectors required by federal benchmarks, resulting in "little inspection activity that is not complaint-driven." Since low-wage workers rarely file complaints due to fear and other barriers, it is highly unlikely that their workplaces will be inspected. In addition, anonymous complaints, the method most likely to be used by low-wage workers, often trigger letters to employers from DOSH rather than actual inspections. As the UCLA report notes, Cal/OSHA has 178 fewer inspectors in 2002 than needed to bring its inspection capacity to the average level of the 20 other states that have their own OSHA programs.[132] Both reports discuss the budget limitations that make it unlikely that staffing increases will happen in the short term. Given the seriousness of this situation and the long-term costs and consequences of inattention, high priority could be given to a recommendation to increase the number of inspectors and focus their attention on low-wage workplaces.

Combining efforts by various agencies may be a potentially effective and less costly way of inspecting more workplaces. Respondents noted that employers who have wage and hour violations tend to have poor health and safety practices as well. They argued for revitalization of the state's task forces on underground and targeted industries, as well as better integration of enforcement efforts during routine contacts by DIR programs and other state departments having jurisdiction over employers. For example, workers' compensation insurance status and basic health and safety problems could be routinely included in Division of Labor Standards Enforcement (DLSE) inspections. Insurance coverage information could be submitted as part of required filings by the Franchise Tax Board or the Employment Development Department.

A related and vital recommendation is to increase the number of bilingual and bicultural Cal/OSHA inspectors who can communicate with non-English speaking workers and more successfully negotiate the fear and other barriers that prevent workers from speaking about conditions during site inspection.

COLLABORATION BETWEEN LOCAL AND STATE GOVERNMENT

Explore increasing collaboration between local and state government to address health and safety compliance.

Currently, local governments have limited or no involvement in outreach, education and enforcement of health and safety standards for businesses in their communities. Most laws and regulations, as well as funding for compliance and enforcement, are centralized at the state and federal level.

The success of most public health campaigns has traditionally — and with good reason — been rooted in programs implemented at the local level by public health departments and other local agencies. Local governments, through their fire departments, environmental health programs, business licensing and other programs have regular contact with businesses in their communities and have opportunities to become aware of unsafe conditions in their jurisdictions. In addition, many local governments have considerable experience and skills in conducting effective outreach efforts.

Pilot projects could be funded to develop innovative enforcement and outreach strategies at the local level and to explore the possibilities for enhancing local inspection efforts and the use of legal remedies by district attorneys and other local regulators to address health and safety compliance at the local level.

EFFORTS BY COMMUNITY-BASED ORGANIZATIONS TO ASSIST WORKERS

Promote efforts by community-based organizations to assist workers with filing claims, obtaining medical services, and negotiating the workers' compensation claim process.

As described in this report, models already exist of community-based organizations, including workers' centers, legal clinics, and various other organizations that help workers file claims, report problems, access occupational health care and negotiate the workers'

compensation process. These organizations have the language and cultural skills to assist vulnerable communities. They also have the trust of the community they serve.

Though most community-based efforts are new and have very limited funding, as a whole, they appear to be successful at helping low-wage workers who have small or medical-only claims, irregular work status, immigration problems, or special language needs. In such cases, community-based organization seem to be providing more effective and less costly services than government assistance programs and private legal services. They also are an important resource for training and information outreach to these populations.

REPRESENTATION OF COMMUNITY-BASED ORGANIZATIONS ON ADVISORY BOARDS

Encourage advisory boards to include representation of community-based organizations.

Community-based organizations are also an important resource for program planning and review and should be consulted in the design of program initiatives affecting low-wage workers. The Los Angeles Workers Advocates Coalition, for example, has developed innovative proposals for free self-help legal clinics (at DLSE offices) and innovative methods for facilitating the handling and processing of wage and hour claims. By including representation of community-based organizations on advisory boards, input on program operations and initiatives as they affect low-wage and immigrant workers would be incorporated.

EFFECTIVE OUTREACH CAMPAIGNS

Encourage development of an outreach campaign to communicate worker rights, responsibilities and resources in vulnerable communities.

As is evident from the success of tobacco education and immunization education efforts, social marketing campaigns can have an enormous impact. They save lives and save money. However, compared to the carefully designed approach taken by successful public health campaigns, outreach efforts in occupational health are sporadic and rely heavily on

pamphlets and other written materials, which often do not reach their intended audience or serve the needs of low-wage workers. More innovative, creative, and sophisticated approaches to outreach are needed. The use of media — especially ethnic media — to reach low-wage populations is one important and not necessarily costly strategy. According to a recent Wall Street Journal report, fully 84% of Latino, Asian-American and African-Americans surveyed in California said they used ethnic television, radio and publications to get information. Advertisements on ethnic media for attorneys' and chiropractors' services were a frequently mentioned source of information for low-wage workers in the focus groups. Collaborative efforts with English as a Second Language (ESL) classes, community clinics, churches and other sites where low-wage workers congregate should also be explored.

LANGUAGE AND LITERACY PARITY

Provide understandable health and safety and workers' compensation information in the languages and at the literacy level appropriate for low-wage workers.

The importance of providing information in the languages and at the literacy level appropriate for low-wage workers was repeatedly stressed by respondents in this study and has been strongly recommended by almost every other report dealing with this topic. The benefits of having information available to workers that they can understand and use far outweigh the moderate costs of translation and review by language specialists familiar with literacy issues.

REALISTIC FINES, PENALTIES AND TIME LIMITATIONS

Establish an ad hoc committee to review legal remedies and fines and penalties for health and safety violations.

Many of the fines and penalties for labor and health and safety violations and legal fees contained in California statutes were established years ago and have not been increased to reflect inflation and current costs. Under Labor Code §132a, for example, only $250 is allowed for the legal costs associated with proving retaliation against a worker who is fired or otherwise discriminated against for filing a workers' compensation claim. Minor penalties and small fines do not act as effective deterrents. As one respondent stated, fines are so small that "employers simply consider them the cost of doing business." Another respondent urged that criminal prosecution be pursued more frequently against employers who commit willful and malicious acts of retaliation.

Statutes of limitations also make it difficult to pursue claims where medical problems from workplace exposures (e.g., cancers) do not show up until later years or when information about workers' compensation benefits was not provided to workers by their employers.

INSURER COVERAGE INFORMATION

Provide web-based public access to workers' compensation insurance coverage information for California businesses.

The Workers' Compensation Insurance Rating Board (WCIRB) currently maintains the list of insurers for California businesses However, web-based public access to workers' compensation insurance coverage information is not readily available. Other states such as Texas, for example, have an electronic database system that quickly and easily provides the name, policy number, and detailed contact information for the insurer when the business name is entered on a publicly accessible web page.[133] In contrast to the ease of use of the Texas system, the WCIRB does not provide information about how to obtain employer coverage information on its website. Instead, it requires a written request, charges for the service, and takes 1-2 weeks to provide the information. Clearly, a web-based system would be a simpler and more cost-effective for all concerned.

ACCESS TO APPROPRIATE OCCUPATIONAL HEALTH CARE

A significant number of workers appear to be excluded from obtaining needed medical treatment due to fear of retaliation, undocumented status, and lack of employment records or due to short-term employment that does not qualify them for benefits. Many workers who did receive occupational health care through employer-designated providers were extremely critical of the care they received.

There appear to be no simple solutions to these problems within the existing workers' compensation system. While SB 899 will facilitate immediate access to care and perhaps make it more difficult for employers to engage in the delaying tactics described earlier in this report, it is not clear how this provision can be implemented successfully in low-wage settings. SB 899 does nothing to reduce the atmosphere of intimidation in many workplaces. Retaliation, or fear of retaliation, for seeking care or reporting injuries is likely to continue to be a major barrier for low-wage workers. Some feasible possibilities include:

Explore the possibility of creating a safety net for the most vulnerable workers by encouraging pilot projects to provide access to occupational health care to low-wage workers in specific target industries.

Several free or low-cost worker-oriented clinics have been started in the past few years to respond to the problem of lack of access for these workers. Other than grants, there are no funding streams available to support these clinics and, at the same time, allow them to provide care to patients who are at risk of retaliation or to patients whose workplace injuries are not covered under workers' compensation insurance. New models for providing occupational health care services for low-wage workers through community, university-based and public clinics could be explored. These could include capitation-based models allowing for care, contracts for case management/services for workers whose expenses are covered by the Uninsured Employers Fund (UEF), and exploration of other reimbursement mechanisms for the treatment of workers who are unwilling to file claims due to legitimate

fear of retaliation. Consideration could be given to encouraging limited-term pilot projects to gather careful data on the costs and impacts of providing medical care to workers in designated industries where a high risk of retaliation exists.

Strengthen the ability of public and community health clinics to provide occupational health care for low-wage workers.

As mentioned previously, many immigrant and low-wage workers obtain their primary health care through public and community health clinics. These sites often have the language resources and cultural capacity to serve low-wage and immigrant workers effectively. Successful integration of these clinics into the occupational health care system will require that training in occupational health care issues and in the laws and regulations governing workers' compensation be provided on an ongoing basis to community and public health clinics. These could include written materials, presentations at statewide conferences and meetings when appropriate and, to the extent feasible, in-service training conducted onsite.

Regulations that mandate the inclusion of qualified community and public health clinics on insurer preferred provider lists for employers with low-wage workforces and efforts could be made to assist them in developing individual or shared billing services. Regular input could be sought from the statewide organizations that represent these clinics and from the clinics themselves to identify the potential impacts of new and existing regulations and to determine how best to enhance the ability of these clinics to provide appropriate occupational health services for low-wage workers.

Determine if the medical treatment provided under SB 899 works effectively and efficiently for low-wage workers.

One of the most consistent complaints from workers in the focus groups was about the inadequate care received from employer-designated doctors. SB 899 will give even greater control to employers over the health care providers they use and greatly limit employees' ability to seek care elsewhere if they are dissatisfied.

Analysis of this process should take into account the special needs and circumstances of low-wage workers. The process for filing a complaint should be described in simple terms, be available in multiple languages and should require only limited levels of literacy to complete. The complaint process should permit anonymous complaints and ensure that complaints receive appropriate attention.

PREVENTION EFFORTS IN LOW-WAGE INDUSTRIES

Enhance prevention efforts in low-wage industries.

As discussed in Chapter 4, prevention efforts in the building maintenance industry were extremely limited. Site visits to workplaces in other industries that predominantly employ low-wage workers are likely to uncover similar opportunities for improved prevention measures. The Working Immigrant Safety and Health (WISH) Coalition report contains a useful discussion of ways to enhance prevention efforts in the key industries which employ low-wage workers including: (a) disseminating information about existing solutions for serious hazards in these industries; (b) providing incentives for employers including tax credits, grants, and insurance rebates for implementing approved health and safety measures; and (c) supporting research on new workplace solutions.

As a first step toward achieving these goals, they recommend establishing a committee under the auspices of the Department of Health Services to identify existing engineering controls or other methods that should be more widely disseminated and establish a research agenda with emphasis placed on research that would demonstrably improve health and safety conditions for immigrant workers.

SURVEILLANCE EFFORTS

Explore the feasibility of implementing a regular reporting mechanism beyond the Workers' Compensation Information System (WCIS) and the annual survey by the Department of Labor Statistics and Research (DLSR) of the Bureau of

Labor Statistics, and a study of surveillance efforts and recommended improvements for tracking injuries and illnesses among low-wage workers.

An examination of the scope of surveillance efforts and recommendations for improving surveillance was excluded from the scope of this study due to funding limitations. While a detailed study of existing data sources and deficiencies was not undertaken, it was evident from cursory review that available information about low-wage workers and their health and safety issues is very limited, difficult to access and, due to widespread underreporting, likely to be inaccurate. Without data to identify risk factors and track improvements, clear goals cannot be setting for resolving the immediate problems identified in this and other reports, including recommendations for more useful and accessible performance data on inspections and other DIR programs.

Provide publicly accessible county-level data on workplace injuries to facilitate local involvement.

Existing data can also be put to better use. In addition to reporting statewide or industry-based data, the development of local initiatives to reduce occupational injuries and illnesses will require county-level data. Regular reporting should be made publicly available and cover occupational illnesses and injuries, claims information, Cal/OSHA inspections, emergency room cases and other available data to assist local surveillance efforts.

APPENDIX A. LOW-WAGE WORKERS PROJECT ADVISORY COMMITTEE

Douglas Benner, MD
Kaiser Permanente

Patricia Breslin
Golden Gate Restaurant Association

Helen Chen, Esq,
Asian Law Caucus

Andrea Dehlendorf
Service Employee International Union, Local 1877

Jim DuPont
Hotel Employees and Restaurant Employee International Union

Lilia Garcia
Maintenance Cooperation Trust Fund

Paul Gil
Made by the Bay, San Francisco Fashion Association

Marion Gillen, RN, PhD
University of California San Francisco

Martha Guzman
United Farm Workers

Kimi Lee
Garment Worker Center

Gideon Letz, MD, MP
State Compensation Insurance Fund

Denise K. Martin
California Association of Public Hospitals and Health Systems

Jack L. Neureuter
Alliance Medical Center

Scott Robinson
ABM Industries, Inc.

Ray Selle
Monterey Mushroom

Glenn Shor, PhD
Division of Workers' Compensation

Peggy Sugarman
California Applicant Attorneys

Leland Swenson
Community Alliance with Family Farmers

APPENDIX B
PARTICIPANTS

This report would not have been possible without the gracious participation of numerous workers, community workers, officials, employers and others who agreed to participate in the interviews and site visits. A partial listing of individuals who participated in interviews or provided information to the project is below. Out of respect for confidentiality, the names of workers, employers and other participants who did not wish to be individually identified are not included.

Isabel Alegria, California Immigrant Welfare Collaborative
Vanessa Alvarado, Agricultural Workers Access to Health Care Project, Watsonville Law Center
Liz Appel, Community Organizer
Arthur V. Azevedo, Green & Azevedo Law Firm
Nikki Bass, Sweatshop Watch
Antonio Bernabe, North Hollywood Day Laborer Center
Juan Carlos Baiza, La Lucha del Jornaleros
Marianne Parker Brown, UCLA Labor Occupational Safety and Health Program
Tanya Broder, National Immigration Law Center
Megan Bui, San Jose Southeast Asian Community Center
Diane Bush, UC Berkeley Labor Occupational Health Program
Susan Chacin, Alameda County Central Labor Council
José A. Chibrás-Sainz, M.D, Salud Para la Gente.
Helen Chen, Asian Law Caucus
Philip Chiu, Chinese Progressive Association
Namju Cho, Coalition to Abolish Slavery and Trafficking
Fritz Conle, Teamsters Union, Salinas
Christina Chung, Asian Pacific American Legal Center
Andrea Dehlendorf, Service Employees International Union, Local 1877
Crescencio Diaz, Teamsters Union, Salinas
Alejandra Domenzain, Los Angeles Garment Workers Center
Raquel F. Donoso, Latino Issues Forum
Ken Fong, Asian Immigrant Women Advocates
Barry Gale, Los Angeles County District Attorney's Office
Lilia Garcia, Maintenance Cooperation Trust Fund
Paul Gill, Made By the Bay
Nato Green, Young Workers Project/ San Francisco Bike Messengers Association
Andres Gonzales, Comite Por Uno
Jerry Hall, Wage and Hour Division, US Department of Labor

Robert Hayes, California Department of Industrial Relations
Amanda Hawes, Santa Clara Center for Occupational Safety and Health
Silvia Henriquez, Latino Issues Forum
Maria Elena Hincapie, National Immigration Law Center
Lana Hogue, Made By the Bay
Dori Rosa Inde, Watsonville Legal Clinic
Roy Jiménez, Salud Para La Gente
Patricia Johnson, New California Media
Anne Katten, California Rural Legal Assistance Foundation
Stacy Kono, Asian Immigrant Women Advocates
Sister Marilyn Lacey, Director Refugee Services Catholic Charities
Kimi Lee, Los Angeles Garment Worker Center
Mike Lee, Korean American Garment Industry Association
Pam Tau Lee, UC Berkeley, Labor Occupational Health Program
Paul Lee, Korean Immigrant Workers Association
Susan Levin, East San Jose Community Law Center.
Patricia Loya, Centro Legal de la Raza
Genipher Lostaunau, Los Angeles Garment Worker Center
Carlos Mare, La Lucha del Jornaleros
Jessica Martinez, Southern California Coalition for Occupational Safety & Health
Myrna Martinez Nateras, Pan California Immigrant Welfare Collaborative
Birku Melese, San Jose Ethiopian Community Services, Inc
Paul Michalko, State Compensation Insurance Fund
Mike Meuter, California Rural Legal Assistance
Lisa Moore, Mujeres Unidas Y Activas
Ivan Ortega, Service Employees International Union, Local 616
Mayron Payes, Coalition for Humane Immigrant Rights of Los Angeles
Lewis Pozzebon, City of Vernon Health Department
Chris Rak, Hotel Employees and Restaurant Employees, Local 2850
Quinton Robinson, UCLA Labor Occupational Safety & Health Program
Otto Rodriguez, Manos Janitorial Collective
Leah Rothstein, Union of Needletrades, Textiles and Industrial Employees
Mike Rucca, Attorney
Glenn Shor, Department of Industrial Relations
Frances Schreiberg, WORKSAFE!
Marcela Siderman, Pico Union Legal Aid Society
Anand Singh, East Bay Alliance for a Sustainable Economy
Peggy Stevenson, Stanford Law School Community Law Clinic
Cassie Stubbs, Bet Tzedik -The House of Justice
Julie Su, Asian Pacific American Legal Center
Peggy Sugarman, California Applicants' Attorneys Association
Maeve Sullivan, Oakland Army Base Workforce Development Collaborative
Juliann Sum, UC Berkeley Labor Center
Liz Torres, Worksite Wellness Project

Juan Uranga, Center for Community Advocacy
Judi Watkins, San Francisco Centers for Applied Competitive Technologies

We would also like to recognize the California Department of Industrial Relations, Division of Labor Standards Enforcement staff who graciously answered questions and provided assistance for the study of janitorial firms.

APPENDIX C. LOW-WAGE OCCUPATIONS IN CALIFORNIA

Table 7. Low-Wage Occupations, California 2003. Contains occupations with median hourly wage less than $10.50 and mean annual income less than $25,000.

SOC Code	EDD OES survey released 12/03 California 2003 wages 2002 emp for occupations using soc EDD	2002 Employment Estimates	Entry-Level Hourly Wage (1)	Mean Hourly Wage	Mean Annual Wage	Mean Relative Standard Error (4)	25th Percentile Hourly Wage	50th Percentile (Median) Hourly Wage	75th Percentile Hourly Wage
31-0000	**Health Care Support Occupations**								
31-1011	Home Health Aides	38,590	$7.72	$9.82	$20,437	1.03	$7.89	$9.13	$10.94
31-1012	Nursing Aides, Orderlies, and Attendants	98,810	$8.23	$10.72	$22,297	0.93	$8.74	$10.26	$12.23
31-9096	Veterinary Assistants and Laboratory Animal Caretakers	5,540	$7.49	$9.67	$20,118	1.78	$7.52	$8.71	$10.80
33-0000	**Protective Service Occupations**								
33-9032	Security Guards	132,170	$7.79	$10.40	$21,635	0.87	$7.99	$9.23	$11.67
33-9091	Crossing Guards	6,260	$7.63	$9.93	$20,665	3.58	$7.74	$8.86	$10.95
35-0000	**Food Preparation and Serving-Related Occupations**	**1,114,870**	**$7.18**	**$9.04**	**$18,810**	**0.53**	**$7.17**	**$7.98**	**$9.66**
35-2011	Cooks, Fast Food	53,300	$7.22	$7.97	$16,585	0.78	$7.14	$7.74	$8.47
35-2014	Cooks, Restaurant	97,630	$7.74	$10.12	$21,050	1.9	$8.12	$9.62	$11.22
35-2015	Cooks, Short Order	27,810	$6.97	$8.68	$18,059	4.89	$7.00	$8.15	$9.99
35-2021	Food Preparation Workers	85,760	$7.52	$9.19	$19,121	1.37	$7.54	$8.56	$10.47
35-3011	Bartenders	44,340	$7.21	$8.73	$18,159	1.4	$7.18	$7.96	$9.09
35-3021	Combined Food Preparation and Serving Workers, Including Fast Food	212,640	$7.16	$8.11	$16,889	0.58	$7.10	$7.59	$8.48
35-3022	Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	84,080	$7.40	$8.92	$18,539	2.25	$7.33	$8.24	$9.92

35-3031	Waiters and Waitresses	213,970	$7.07	$8.32	$17,312	1.14	$7.02	$7.30	$8.36
35-3041	Food Servers, Nonrestaurant	17,350	$7.26	$9.08	$18,893	1.2	$7.26	$8.21	$10.42
35-9011	Dining Room and Cafeteria Attendants and Bartender Helpers	64,060	$7.07	$7.89	$16,418	0.88	$7.02	$7.28	$8.25
35-9021	Dishwashers	60,850	$7.12	$7.86	$16,343	0.6	$7.06	$7.47	$8.37
35-9031	Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop	36,700	$7.16	$8.19	$17,028	0.66	$7.14	$7.72	$8.60
35-9099	Food Preparation and Serving Related Workers, All Other	8,930	$7.16	$8.67	$18,038	2.82	$7.10	$7.39	$9.29
37-0000	**Building and Grounds Cleaning and Maintenance Occupations**	**464,610**	**$7.63**	**$11.10**	**$23,106**	**0.7**	**$7.85**	**$9.58**	**$13.16**
37-2011	Janitors and Cleaners, Except Maids and Housekeeping Cleaners	203,960	$7.60	$10.74	$22,332	1.12	$7.78	$9.46	$12.96
37-2012	Maids and Housekeeping Cleaners	88,760	$7.40	$8.99	$18,705	0.67	$7.40	$8.40	$10.00
37-3011	Landscaping and Groundskeeping Workers	115,170	$7.74	$11.26	$23,418	0.68	$8.08	$9.89	$13.25
39-0000	**Personal Care and Service Occupations**	**305,300**	**$7.43**	**$11.59**	**$24,101**	**1.94**	**$7.51**	**$9.14**	**$12.89**
39-1012	Slot Key Persons	1,280	$7.85	$11.54	$24,015	4.34	$8.32	$9.94	$12.96
39-2021	Nonfarm Animal Caretakers	10,420	$7.50	$10.27	$21,367	2.19	$7.60	$9.02	$11.65
39-3011	Gaming Dealers	6,560	$7.11	$9.39	$19,517	4.4	$7.02	$7.47	$8.67
39-3012	Gaming and Sports Book Writers and Runners	870	$7.56	$9.72	$20,217	2.49	$7.88	$9.44	$11.09
39-3031	Ushers, Lobby Attendants, and Ticket Takers	15,330	$7.11	$8.59	$17,876	2.01	$7.06	$7.52	$8.84
39-3091	Amusement and Recreation Attendants	36,790	$7.03	$8.35	$17,355	2.65	$7.01	$7.50	$8.68
39-3093	Locker Room, Coatroom, and Dressing	2,090	$7.58	$9.80	$20,384	3.22	$7.58	$8.64	$10.89

	Room Attendants								
39-3199	Gaming Workers, All Other	3,820	$7.65	$11.90	$24,737	4.23	$8.14	$9.98	$14.90
39-5011	Barbers	1,210	$7.28	$9.83	$20,455	3.2	$7.31	$8.50	$10.97
39-5012	Hairdressers, Hairstylists, and Cosmetologists	26,560	$7.46	$10.58	$21,990	3.01	$7.51	$8.81	$11.38
39-5092	Manicurists and Pedicurists	4,330	$7.16	$8.69	$18,076	2.43	$7.20	$7.99	$9.45
39-5093	Shampooers	780	$7.18	$7.86	$16,345	1.54	$7.13	$7.52	$8.40
39-6011	Baggage Porters and Bellhops	6,490	$7.18	$10.38	$21,593	4.19	$7.21	$8.47	$11.05
39-6032	Transportation Attendants, Except Flight Attendants and Baggage Porters	2,380	$7.73	$11.15	$23,207	4.74	$8.09	$9.94	$13.56
39-9011	Child Care Workers	40,800	$7.65	$9.92	$20,649	1.14	$7.85	$9.23	$11.37
39-9021	Personal and Home Care Aides	32,550	$7.48	$9.26	$19,259	2.5	$7.49	$8.55	$10.14
39-9032	Recreation Workers	40,000	$7.61	$10.86	$22,597	1.5	$7.86	$9.58	$12.17
41-0000	**Sales and Related Occupations**								
41-2011	Cashiers	361,970	$7.38	$10.12	$21,055	0.63	$7.39	$8.51	$11.13
41-2012	Gaming Change Persons and Booth Cashiers	2,370	$7.56	$9.95	$20,687	4.08	$7.61	$9.35	$11.90
41-2021	Counter and Rental Clerks	57,480	$7.71	$11.10	$23,079	1.2	$7.87	$9.33	$12.08
41-2031	Retail Salespersons	424,590	$7.66	$11.78	$24,498	0.82	$7.77	$9.20	$12.52
43-0000	**Office and Administrative Support**								
43-3041	Gaming Cage Workers	1,120	$8.35	$10.71	$22,277	2.74	$8.86	$10.14	$11.91
43-4071	File Clerks	36,470	$7.79	$11.18	$23,245	1	$8.24	$10.32	$13.40
43-4081	Hotel, Motel, and Resort Desk Clerks	18,630	$7.76	$9.80	$20,377	1.16	$7.96	$9.40	$11.11
43-5021	Couriers and Messengers	20,040	$7.47	$10.47	$21,771	2.06	$7.55	$9.02	$12.10

43-5081	Stock Clerks and Order Fillers	169,360	$7.81	$11.54	$24,002	0.67	$8.22	$10.32	$13.75
45-0000	**Farming, Fishing, and Forestry Occupations**	**174,570**	**$7.19**	**$8.95**	**$18,609**	**0.95**	**$7.13**	**$7.54**	**$8.80**
45-2021	Animal Breeders	60	$7.66	$11.17	$23,223	5.75	$7.78	$9.23	$13.77
45-2041	Graders and Sorters, Agricultural Products	15,180	$7.13	$7.98	$16,614	1.09	$7.08	$7.36	$8.46
45-2091	Agricultural Equipment Operators	6,160	$7.44	$9.79	$20,369	2.18	$7.45	$8.60	$10.84
45-2092	Farmworkers and Laborers, Crop, Nursery, and Greenhouse	124,140	$7.15	$8.07	$16,785	0.79	$7.08	$7.42	$8.35
45-2093	Farmworkers, Farm and Ranch Animals	8,000	$7.14	$8.63	$17,934	2.3	$7.08	$7.64	$9.23
45-4011	Forest and Conservation Workers	2,230	$7.59	$10.05	$20,896	1.28	$7.47	$8.14	$9.85
45-9099	Farming, Fishing, and Forestry Workers, All Other	5,140	$7.70	$11.58	$24,067	1.45	$8.03	$9.93	$12.66
47-0000	**Construction and Extraction**								
47-3014	Helpers--Painters, Paperhangers, Plasterers, and Stucco Masons	7,390	$7.80	$10.50	$21,837	5.35	$7.89	$8.91	$11.51
47-3016	Helpers--Roofers	2,120	$8.28	$10.87	$22,626	1.58	$8.76	$10.32	$12.34
47-3019	Helpers, Construction Trades, All Other	4,840	$7.84	$11.82	$24,577	3.27	$8.21	$10.26	$14.04
47-4031	Fence Erectors	5,700	$7.31	$11.72	$24,384	7.86	$7.10	$10.09	$12.80
47-5051	Rock Splitters, Quarry	70	$7.98	$10.42	$21,692	5.26	$8.04	$8.92	$11.44
49-0000	**Installation, Maintenance and Repair Occupations**								
49-3091	Bicycle Repairers	1,390	$7.92	$10.33	$21,499	3.35	$8.32	$9.93	$12.38
51-0000	**Production Occupations**								
51-2021	Coil Winders, Tapers, and Finishers	3,330	$7.79	$11.08	$23,049	2.26	$8.08	$9.90	$12.97
51-2092	Team Assemblers	120,400	$7.75	$11.12	$23,122	1.03	$8.10	$9.97	$12.88

51-2099	Assemblers and Fabricators, All Other	33,590	$7.28	$10.03	$20,865	1.8	$7.31	$8.76	$11.84
51-3022	Meat, Poultry, and Fish Cutters and Trimmers	8,920	$7.57	$10.29	$21,390	2.68	$7.60	$9.04	$12.68
51-3023	Slaughterers and Meat Packers	4,300	$7.52	$10.39	$21,618	4.68	$7.63	$9.20	$11.56
51-3092	Food Batchmakers	7,390	$7.68	$11.55	$24,021	1.58	$8.03	$10.10	$14.28
51-3099	All Other Food Processing Workers	4,060	$7.21	$9.56	$19,868	2.87	$7.28	$8.28	$10.28
51-4071	Foundry Mold and Coremakers	1,670	$7.84	$10.99	$22,858	1.71	$8.40	$10.36	$12.77
51-4072	Molding, Coremaking, and Casting Machine Setters, Operators, and Tenders, Metal and Plastic	12,730	$7.43	$10.37	$21,566	1.57	$7.47	$8.91	$11.67
51-4199	Metal Workers and Plastic Workers, All Other	7,350	$7.60	$11.40	$23,722	3.41	$7.74	$9.40	$13.02
51-5011	Bindery Workers	7,990	$7.67	$11.49	$23,897	1.5	$7.95	$10.21	$13.82
51-5099	All Other Printing Workers	1,330	$7.26	$11.19	$23,262	8.9	$7.37	$9.14	$12.22
51-6011	Laundry and Dry-Cleaning Workers	20,350	$7.46	$9.01	$18,740	1.24	$7.45	$8.37	$9.66
51-6021	Pressers, Textile, Garment, and Related Materials	13,450	$7.56	$9.16	$19,058	3.51	$7.57	$8.66	$10.02
51-6031	Sewing Machine Operators	61,890	$7.23	$8.51	$17,699	0.65	$7.22	$7.78	$8.95
51-6041	Shoe and Leather Workers and Repairers	1,690	$7.29	$9.03	$18,778	2.33	$7.36	$8.41	$10.10
51-6042	Shoe Machine Operators and Tenders	130	$7.64	$8.96	$18,636	1.98	$7.59	$8.45	$9.53
51-6051	Sewers, Hand	4,530	$7.65	$9.31	$19,366	3.87	$7.61	$8.61	$10.18
51-6061	Textile Bleaching and Dyeing Machine Operators and Tenders	3,680	$7.16	$8.43	$17,546	2.42	$7.14	$7.45	$8.94
51-6062	Textile Cutting Machine Setters, Operators, and Tenders	5,590	$7.64	$9.59	$19,944	3.04	$7.59	$8.53	$10.65
51-6063	Textile Knitting and Weaving Machine	3,140	$7.20	$8.52	$17,706	1.35	$7.20	$7.72	$9.14

	Setters, Operators, and Tenders								
51-6064	Textile Winding, Twisting, and Drawing Out Machine Setters, Operators, and Tenders	1,010	$7.40	$9.59	$19,953	2.58	$7.41	$9.14	$11.20
51-6091	Extruding and Forming Machine Setters, Operators, and Tenders, Synthetic and Glass Fibers	770	$7.77	$10.35	$21,517	2.29	$8.02	$9.61	$12.00
51-6099	Textile, Apparel, and Furnishings Workers, All Other	6,670	$7.68	$9.29	$19,325	3.39	$7.62	$8.45	$9.52
51-7021	Furniture Finishers	3,460	$7.68	$10.96	$22,779	1.92	$7.84	$9.42	$12.69
51-7041	Sawing Machine Setters, Operators, and Tenders, Wood	3,450	$7.70	$10.89	$22,655	1.98	$7.98	$9.85	$13.14
51-7042	Woodworking Machine Setters, Operators, and Tenders, Except Sawing	7,400	$7.73	$10.56	$21,980	1.29	$7.95	$9.45	$12.25
51-7099	Woodworkers, All Other	2,300	$7.60	$10.17	$21,151	2.88	$7.66	$9.01	$11.63
51-9022	Grinding and Polishing Workers, Hand	6,290	$7.83	$10.68	$22,200	1.11	$8.18	$9.76	$11.93
51-9031	Cutters and Trimmers, Hand	5,930	$7.49	$10.08	$20,975	2.22	$7.53	$9.05	$11.28
51-9032	Cutting and Slicing Machine Setters, Operators, and Tenders	7,050	$7.85	$11.73	$24,395	1.97	$8.24	$10.42	$14.13
51-9083	Ophthalmic Laboratory Technicians	2,190	$8.08	$11.89	$24,734	2.54	$8.51	$10.50	$14.13
51-9111	Packaging and Filling Machine Operators and Tenders	40,720	$7.57	$10.97	$22,832	1.12	$7.70	$9.35	$13.39
51-9123	Painting, Coating, and Decorating Workers	4,100	$7.55	$10.54	$21,938	1.47	$7.64	$9.22	$12.27
51-9191	Cementing and Gluing Machine Operators and Tenders	2,440	$7.68	$10.90	$22,673	2.29	$7.78	$9.15	$12.78
51-9192	Cleaning, Washing, and Metal Pickling Equipment Operators and Tenders	1,760	$7.81	$11.46	$23,846	2.39	$8.34	$10.33	$14.42

51-9198	Helpers--Production Workers	48,690	$7.34	$9.73	$20,250	0.94	$7.41	$8.50	$10.90
51-9199	Production Workers, All Other	48,140	$7.54	$10.77	$22,396	1.33	$7.60	$8.93	$11.96
53-0000	**Transportation and Material Moving Occupations**								
53-3031	Driver/Sales Workers	46,050	$7.55	$11.85	$24,653	2.18	$7.61	$8.91	$14.83
53-3041	Taxi Drivers and Chauffeurs	12,500	$7.69	$11.19	$23,266	3.07	$7.98	$9.76	$12.94
53-6021	Parking Lot Attendants	20,420	$7.29	$8.73	$18,165	1.52	$7.28	$8.00	$9.11
53-6031	Service Station Attendants	8,250	$7.51	$9.78	$20,322	3.75	$7.56	$8.70	$10.86
53-7061	Cleaners of Vehicles and Equipment	48,560	$7.26	$9.21	$19,157	0.99	$7.26	$8.12	$10.04
53-7062	Laborers and Freight, Stock, and Material Movers, Hand	255,480	$7.56	$10.45	$21,732	0.67	$7.71	$9.29	$12.11
53-7063	Machine Feeders and Offbearers	15,300	$7.72	$11.46	$23,854	1.51	$7.98	$9.97	$13.97
53-7064	Packers and Packagers, Hand	123,660	$7.24	$8.99	$18,699	0.63	$7.26	$8.07	$9.33

ENDNOTES

1 California Employment Development Department (EDD). 2000. Occupational Employment Statistics (OES) Survey Results: Occupational Employment and Wage Data 1998. Available at http://www.calmis.ca.gov/file/.

2 More P, Wagonhurst P, Goodheart J, Runsten D, Marcelli E, Joassart-Marcelli P, Medearis J. 2000. The Other Los Angeles: The Working Poor In The City Of The 21St Century, Los Angeles Alliance For A New Economy (LAANE). 464 Lucas Ave., Suite 202, Los Angeles, CA 90017. Available at http://www.laane.org/research/reports.html.

3 Ross J. 2000. Falling Behind: California Workers And The New Economy. The California Budget Project. 1107 9th Street, Suite 310, Sacramento, California 95814. Available at http://www.cbp.org and Ross J, Schoeni R F, McCarthy KF, Vernez G. 1996. The Mixed Economic Progress of Immigrants. RAND Institute Document MR-763-IF/FF.

4 Commission on Health and Safety and Workers' Compensation (CHSWC). 2003. Annual Report 2002-2003. 1515 Clay St., Room 901, Oakland CA 94612. Available at http://www.dir.ca.gov/chswc/allreports.html.

5 Loh K, Richardson S. 2004. Foreign-born workers: trends in fatal occupational injuries, 1996-2001. Monthly Labor Review, June 2004.

6 U.S. Department of Labor, Bureau Of Labor Statistics. 2002. Fatal Occupational Injuries In The Pacific States, U.S. Department Of Labor News, December 30, 2002.

7 Loh K, Richardson S, 2004. op. cit.

8 U.S. Department of Labor, Bureau of Labor Statistics. 2002. Number of Nonfatal Occupations Injuries and Illnesses Involving Days Away From Work by Selected Worker Characteristic and Industry Division, 2001: California-Private Industry, U.S. Department of Labor Survey of Occupational Injuries and Illnesses.

9 U.S. Department of Labor, Bureau of Labor Statistics, 2002. Incidence rates of nonfatal occupational injuries and illnesses by industry and selected case types, 2001: California U.S. Department of Labor, Survey of Occupational Injuries and Illnesses.

10 Data collected by the authors at the Oakland-based Asian Immigrant Women Workers Clinic gives some indication of the likely extent of underreporting among these workers. Ninety-nine percent of the garment workers seen in 2000 at this free clinic had work-related musculoskeletal disorders severe enough to warrant further treatment and, at minimum, workers' compensation for medical expenses. Though not a random sample, these clinical findings are an indication that far higher rates of injuries and illnesses are occur than the numbers reported. Few of the patients had been informed about workers' compensation benefits by their employers and only 2% were willing to file claims, most citing concern about workplace reprisals.

11 Leigh JP, Marcin JP, Miller TR. 2004. An estimate of the U.S. government's undercount of nonfatal occupational injuries. J Occup Environ Med. Jan: 46(1):10-8.

12 Katz JN, Lew RA, Bessette L, Punnett L, Fossel AH et al. 1998. Prevalence and Predictors of Long-Term Work Disability Due to Carpal Tunnel Syndrome. Am J Indust Med, 33.

13 Morse TF, Dillon C, Warren N, Levenstein C, Warren A. 1998. The Economic and Social Consequences of Work-related Musculoskeletal Disorders, Intl J Occup Environ Med, Oct-Dec 4:4.

14 Frumkin H, Williamson M, Magid D, Holmes JH, Grisso JA. 1995. Occupational Injuries in a Poor Inner-City Population, Occupational and Environmental Medicine, Dec 37:12.

15 California Employment Development Department. (viewed 2005) Definition of underground economy. Available at http:/www/.edd.ca.gov/taxrep/txueindtx.htm#Definition-of-Underground-Economy

16 Some economists distinguish between two segments of the underground economy; the "informal economy" (i.e., those businesses that produce legal goods and services) and the "illicit economy" (i.e., those businesses that trade in illegal goods and services.) This study did not focus on workers in the "illicit economy."

17 California Employment Development Department. 2004. Information Sheet DE 631UEO Rev 1 (3-04).

18 Ibid.

19 California Department of Industrial Relations. 1994. Labor commissioner active in underground economy strike force. Available at http://www.dir.ca.gov/bulletin/spring%5F94/labor%5Fcom.html

20 California Commission On Health And Safety And Workers' Compensation (CHSWC). 1998. CHSWC Recommendations To Identify Illegally Uninsured Employers And Bring Them Into Compliance. Available at http://www.dir.ca.gov/CHSWC/allreports.html.

21 California Department of Insurance, 2003. Workers' Compensation Fraud Facts. 300 Capitol Mall, Suite 1600, Sacramento, CA 95814. Available at http://www.insurance.ca.gov/PRS/PRS2003/fs036-03.htm.

22 Ibid, see page 20 .

23 Workers' Compensation Insurance Rating Bureau . 2004. Report On Q3 2003 Insurer Results. . 525 Market Street, Suite 800 San Francisco, CA 94105-2767.

24 U.S. Department of State cited in Lederer L, 1999. Trafficking and Procuration Legislation: A Worldwide Survey. The Protection Project, John Hopkins University, Washington. D.C.

25 U.S. Department of State,. 2003. Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report.

26Finckenauer J, Schrock J. 2003. Human Trafficking: A Growing Criminal Market in Trafficking in Women and Children: 2003 Current Issues and Developments, Anna Troubnikoff, Ed. U.S. International Center, National Institute of Justice, U.S. Department of Justice. Nova Publishers.

27 International Labour Organization. 2001. Stopping Forced Labour. 4, route des Morillons, CH-1211 Geneva 22, Switzerland. Available at http://www.ilo.org/dyn/declaris/DECLARATIONWEB.PRODUCTSHOME?var_language=EN .

28 Joshi A . 2002. The Faces of Human Trafficking, Hastings Women's Law Journal, 17:36, 17/09/2002.

29 Hughes D, Sporcic L, Mendelsohn N, Chirgwin V. 1999. The Factbook on Global Sexual Exploitation, Coalition Against Trafficking in Women. Coalition Against Trafficking in Women. Available at http://www.uri.edu/artsci/wms/hughes/factbook.htm.

30 Joshi A . 2002. The Face of Human Trafficking. Hastings Women's Law Journal. Winter 13: 31-52.

31 Jordan, Ann, Trafficking in Human Beings: The Slavery that Surrounds Us, International Human Rights Law Group, 2001.Available at http://usinfo.state.gov/journals/itgic/0801/ijge/gj05.htm.

32 In the car wash industry in Southern California, this practice has become sufficiently common that such workers are known by the Spanish term "propineros" (tip workers.)

33 U.S. Department Of Labor, Employment Standards Administration, Wage And Hour Division . 2000. Only One-Third Of Southern California Garment Shops In Compliance With Federal Labor Laws.Available athttp://www.dol.gov/esa/media/press/whd/sfwh112.htm.

34 U.S. Department Of Labor, Employment Standards Administration, Wage And Hour Division. 1998. Federal Survey Of State Grape Industry Reveals Underpaid Workers. Available athttp://www.dol.gov/esa/media/press/whd/sfwh177.htm .

35 Ewell M, Ha KO, 1999. Outside the eyes of the law, Silicon Valley companies pay Asian immigrants by the piece to assemble parts at home. San Jose Mercury News, (6/27/1999) .

36 California Employment Development Department. 2003. Joint Enforcement Task Force Figures, 1998-2002.

37 U.S. Small Business Administration, Office of Advocacy. 2003. Small Business Economic Indicators for 2002. Data cited are from estimates provided by the U.S. Census Bureau and the Department of Labor Employment and Administration.

38 U.S. Small Business Administration, Office of Advocacy. 2003. State Small Business Profile: California.

39 Haynes G. 2001. Wealth and Income: How Did Small Businesses Fare from 1989 to 1998, U.S. Small Business Administration.

40 U.S. Small Business Administration, Office of Advocacy. 2003. Small Business Economic Indicators for 2002.

41 Headd B. 2003. Redefining Business Success: Distinguishing Between Closure and Failure. Small Business Economics 21: 51 – 61.

42 Le CN . 2004. "Asian Small Businesses" Asian-Nation: The Landscape of Asian America. Available athttp://www.asian-nation.org/small-business.shtml . Statistics are based on U.S. Census Bureau PUMS data for the 2000 census. Both employer and non-employer firms are included in these numbers.

43 U.S. Department of Labor, Bureau of Labor Statistics. 2004. Table 3. Incidence rates of nonfatal occupational injuries and illnesses by industry division and employment size, 2002. Available athttp://www.bls.gov/opub/cwc/sh20040323tb03.htm.

44 Oleinick A, Gluck JV, Guire KE. 1995. Establishment size and risk of occupational injury. Am J Ind Med. Jul; 28(1):1-21.

45 Mendeloff JM, Kagey BT. 1990. Using Occupational Safety and Health Administration accident investigations to study patterns in work fatalities. J Occup Med. Nov; 32(11):1117-23.

46 Lashuay N, Burgel B, Harrison R, Israel L, Chan J, Cusic C, Pun JC, Fong K, Shin Y. 2002. "We Spend Our Days Working In Pain:" A Report on Workplace Injuries in the Garment Industry. Asian Immigrant Women Advocates, 310 8St, Suite 301, Oakland, CA 94601. Available at http://www.aiwa.org/workingreport.pdf.

47 Glazner JE, Borgerding J, Lowery JT, Bondy J, Mueller KL, Kreiss K. 1998. Construction Injury rates may exceed national estimates: evidence from the construction of Denver International Airport. Am J Ind Med. 34:105-112.

48 California Department of Industrial Relations, Commission on Health and Safety and Workers' Compensation. 1998. CHSWC Recommendations, December 1998. No information about business size can be inferred for the fourth group in the study which consisted of a sample of business in all "other industries" with high uninsured fund payouts. This group had a 8.6% rate of uninsurance in the pilot study.

49 American Federation of Labor - Congress of Industrial Organizations (AFL-CIO), Safety and Health Department. 2003. Death On The Job: The Toll of Neglect A National And State-By-State Profile Of Worker Safety And Health In The United States, 12th Edition. 815 16th St., N.W. Washington, D.C. 20006. Available at http://www.aflcio.org/issues/factsstats/indexcfm#safety.

50 See full transcript at http://www.nbc4.tv/team4reports/2207785/detail.html.

51 Mayer G, Hernandez I. 2003. "Carwash Workers," unpublished paper, University of California Los Angeles School of Law.

52 Employment Rights for Car Wash Employees - AB 1688 (Goldberg). Chapter 825, Statutes of 2003, California.

53 U.S. Census Bureau. 2000. State & County Quick Facts, 2000. Available at http://factfinder.census.gov.

54 U.S. Census Bureau, Census 2000 Summary File 3 (California), Matrices P18, P19, P21, P22, P24, P36, P37, P39, P42, PCT8, PCT16, PCT17, and PCT19. Available at http://factfinder.census.gov.

55 More P, Wagonhurst P, Goodheart J, Runsten D, Marcelli E, Joassart-Marcelli P, Medearis J. 2000. The Other Los Angeles: The Working Poor In The City Of The 21St Century. Los Angeles Alliance For A New Economy (LAANE), 464 Lucas Ave., Suite 202, Los Angeles, CA 90017. Available at http://www.laane.org/research/index.html.

56 Ross, J. 2000. Falling Behind: California Workers and the New Economy, The California Budget Project. 1107 9th Street, Suite 310 Sacramento, CA 95814. Available at http://www.cbp.org.

57 Schoeni R F, McCarthy KF, Vernez G. 1996. The Mixed Economic Progress of Immigrants, RAND Institute Document MR-763-IF/FF.

58 U.S. Immigration and Naturalization Service. 2003. Office of Policy and Planning, Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000. Available at http://uscis.gov/graphics/shared/aboutus/statistics/Ill_Report_1211.pdf.

59 U.S. Census Bureau. Census 2000 Summary File 3 (California), Matrices P18, P19, P21, P22, P24, P36, P37, P39, P42, PCT8, PCT16, PCT17, and PCT19. http://factfinder.census.gov/

60 Sum A. 1999. Literacy in the Labor Force: Results from the National Adult Literacy Survey. U.S. Department of Education. National Center for Education Statistics.

61 Brown E, Ponce N, Rice T, Lavarreda S. 2002. The State of Health Insurance in California: Findings from the 2001 California HealthInterview Survey. University of California Los Angeles, Center for Health Policy Research.

62 Heymann J. 2000. The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It. Basic Books.

63 National Partnership for Women & Families .2000. "Nation's Leave Policies Wanting For Both Middle Class And Poor, New Harvard Research Finds," News Release, , Washington, D.C., November 15.

64 U.S. Department of Labor, Bureau of Labor Statistics. 2004. Union Members in 2003, United States Department of Labor News.

65 Hirsch B, Macpherson D. 2003. Union Membership, Coverage, Density and Employment by State, 2003 See Union Membership and Coverage Database from the Current Population Survey." Industrial and Labor Relations Review, Vol. 56, No. 2, , pp. 349-54. Available at www.unionstats.com.

66 Milkman R, Rooks D. 2003. California Union Membership: A Turn-of-the-Century Portrait, University of California Institute for Labor and Employment, Available at http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1029&context=ile.

67 More P. et al. Op. cit.

68 California Department of Food and Agriculture, Agricultural Statistics Service. 2003. Agriculture Statistical Review: 2002. P.O. Box 1258, Sacramento, CA 95812. Available at http://www.nass.usda.gov/pub/nass/ca/AgStats/2002-ovw.pdf.

69 California Department of Food and Agriculture, Agricultural Statistics Service. 2004. California's Top 20 Commodities—2003 in California Agricultural Statistics. Available at http://www.cdfa.ca.gov.

70 University of California Berkeley, Department of Agriculture and Resource Economics, Agriculture Personal Management Program. (Viewed 2005) Management Practices: Farm Labor Contracting. Available athttp://apmp.berkeley.edu.

71 Rodriguez M., Toller J., Dowling P. 2003. Health of Migrant Farmworkers in California. California Research Bureau, Policy Brief Number 4. California State Library, Sacramento, CA.

72 Khan M, Martin P, Hardiman P. 2003. California's Farm Labor Markets: A Cross-sectional Analysis of Employment and Earnings in 1991, 1996, and 2001. California Employment Development Department, Applied Research Unit. Available at http://www.calmis.ca.gov/specialreports/ag-emp-1991to2001.pdf.

73 Rodriguez et al. op. cit.

74 Arroyo M, Kurre L. 1997. Young Agricultural Workers In California. Labor Occupational Health Program, University of California Center for Occupational and Environmental Health, Berkeley, CA.

75 Vallarejo D, Lighthall D, Williams D et al. 2000. Suffering in Silence: A Report on the Health of California's Agricultural Workers. California Institute for Rural Studies. The California Endowment. 21650 Oxnard St., Suite 1200, Woodland Hills, CA 91367. Available at htttp://www.calendow.org/reference/publications/pdf/agricultural/AgrWorkersSurveyver012301.pdf.

76 Mines R, Mullenax N, Saca L. 2001.. The Binational Farmworker Health Survey. California Institute for Rural Studies. Davis, CA. Available at http://www.cirsinc.org/BHFS2002.pdf.

77 Vallarejo et al. op. cit.

78 U.S. Department of Labor, Bureau of Labor Statistics. 2003. Survey of Occupational Injuries and Illnesses, 2001. Subsequent deaths from work-related illnesses are not included in these figures.

79 California Restaurant Association. 2004 Fast Facts. 1011 10th Street, Sacramento, CA 95814. Available atwww.calrest.org/newsinfo/fastfacts.asp.

80 U.S. Department of Labor, Bureau of Labor Statistics. 2004. Selected western metropolitan statistical areas: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2001-2002. Available at http://66.102.7.104/search?q=cache:JddaIjF0M88J:bls.gov/ro3/fax_9350.htm+%22Selected+western+metropolitan+statistical+areas:+Average+annual+expenditures+and+characteristics,+Consumer+Expenditure+Survey,+2001-2002%22.&hl=en.

81 California Restaurant Association. op. cit.

82 Sims K. 2002. Economics of the San Francisco Restaurant Industry. Golden Gate Restaurant Association,120 Montgomery Street, Suite 1280, San Francisco, CA 94104. According to this report, median income for San Francisco's table service restaurants plunged 40% following the September 11, 2001 terrorist attacks.

83 California Employment Development Department, Labor Market Information Division. 2004. A Labor Day Briefing for California. Available at http://www.labormarketinfo.edd.ca.gov/admin/uploadedPublications/330_Labor-Day-Briefing-2004.pdf.

84 Sims K. op. cit.

85 Webster T. 2001. Occupational Hazards in Eating and Drinking Places, Compensation and Working Conditions. US Department of Labor, Bureau of Labor Standards.

86 Webster T. Ibid.

87 Webster T. Ibid.

88 Chung A, Shin KM, Garcia N, Lee JH, Vargas R. 2000. "Workers Empowered:" A Survey of Working Conditions in the Koreatown Restaurant Industry, Korean Immigrant Workers Association, 3465 West 8th Street, 2nd floor, Los Angeles, CA 90005. Available at: http://www.kiwa.org/e/homefr.htm.

89 The new Workers' compensation Reform Package, SB899, has a provision permitting workers to seek immediate care to be paid for by their employers, which supersedes this provision.

90 See California Workers' Compensation Insurance Rating Bureau, Coverage Research Service http://wcirbonline.org/.

91 Chan J. 2004. Health and Safety in the Janitorial Industry. unpublished manuscript, California Department of Health Services Occupational Health Branch, 1515 Clay Street, Suite 1901, Oakland, CA 94612. Data for this report were collected through interviews with workers, employers, and key informants, ten worksite visits, janitor training classes, and literature review.

92 Author interview (J. Chan) with Department of Industrial Relations Division of Labor Standards Enforcement staff.

93 U.S. Census Bureau. Industry Statistics Sampler (NAICS 56172) Janitorial Services, 2002 Economic Census. Available at http://www.census.gov/epcd/ec97/industry/E56172.HTM#T4.

94 Dun and Bradstreet Zapdata. 2004. See websitewww.zapdata.com. Dun and Bradstreet is a commercial marketing database used for the purposes of sales lead generation, direct mail and telemarketing campaigns, and market research. The information is gathered from a variety of sources including direct company contact, government reports, the US Postal Service, utility companies, newspapers and other publications, and is updated quarterly.

95 Smaller employers are often immigrants themselves and some cannot speak English very well. Unfamiliarity with reporting requirements and lack of English skills may account for some underreporting.

96 U.S. Department of Labor, Bureau of Labor Statistics. 2005. Occupational Outlook Handbook, 2004-05 Edition, Building Cleaning Workers. Available at http://www.bls.gov/oco/ocos174.htm (visited July 05, 2005).

97 U.S. Department of Labor,Bureau of Labor Statistics. 2005. Occupational Employment Estimates, May 2004. Available at Http://www.bls.gov/oes/current/oes_ca.htm#b37-0000.

98 California Employment Development Department. 2003. Occupational Employment Survey.

99 Service Employees International Union, Local 1877 reports a membership of over 25,000 building service workers, primarily janitors, in California. See http://www.seiu1877.org/ Other unions, particularly those representing school and government employees also include janitorial workers in their membership.

100 California Employment Development Department, Joint Enforcement Strike Force on the Underground Economy. 2004. 2003 Annual Report to the California Legislature. Available at http://www.edd.ca.gov/taxrep/txueo03.pdf.

101 Based on author (J. Chan) interviews with California Department of Industrial Relations, Division of Labor Standard Enforcement investigators.

102 Based on author (J. Chan) interviews with California Department of Industrial Relations, Division of Labor Standard Enforcement investigators.

103 Marketdata Enterprises, Inc. 2004. The U.S. Commercial and Residential Cleaning Industry—Market Research Report, 2807 Busch Boulevard-110, Tampa, FL 33618.

104 U.S. Department of Labor, Bureau of Labor Statistics. 2003. Table 2. Number of nonfatal occupational injuries and illnesses involving days away from work1 by selected worker and case characteristics and occupation, All United States, private industry, 2001.

105 Leigh JP, Miller TR, 1998. Job-Related Diseases and Occupations Within a Large Workers' Compensation Data Set. Am J Ind Med 33:197–211.

106 International Sanitary Supply Association (ISSA). 2004. Report on 2002 Sanitary Supply Distributor Sales, Trade Press Publishing Corporation. Available at www.cleanlink.com.

107 The WRPPN, established in 1997 by the U.S. Environmental Protection Agency, is a strategic alliance involving local, state, federal and tribal pollution prevention (P2) programs throughout EPA Region 9. The project emphasized hazards associated with specific high-risk cleaning work, techniques for safe storage and mixing, and methods for janitors to learn on their own the health consequences of specific chemical ingredients.

108 Wolkoff P, Schneider T, Kildeso J, Degerth R, Jaroszewski M, Schunk H. 1998. Risk in cleaning: chemical and physical exposure. The Science of the Total Environment. 215: 135-156.

109 Bridges B. 2002. Fragrance: emerging health and environmental concerns. Flavour and Fragrance Journal. 17(5): 361-371.

110 Barron T. 1999. How To Select And Use Safe Janitorial Chemicals. U.S. Environmental Protection Agency, Western Region Pollution Prevention Project. Available at http://www.wrppn.org/Janitorial/05%20Report.pdf. Also of note, Washington State workers' compensation data for the period 1995-1997 showed that about 290 janitors per year submitted claims for lost time injuries from chemical exposure: 43% of these injuries involved eye irritation or burns; 36% involved skin irritation or burns; and 12% involved inhalation.

111 Rosenman K, Reilly MJ, Schill D, Valiante D, Flattery J, Harrison R, et al. 2003. Cleaning Products and Work-Related Asthma. J Occup Environ Med, 45(5):556-563.

112 Woods V, Buckle P, Haisman M. 1999. Musculoskeletal Health of Cleaners. Robens Centre for Health Ergonomics, European Institute for Health and Medical Sciences, University of Surrey for the Health and Safety Executive and UNISON. Available at http://www.hse.gov.uk/research/crr_pdf/1999/crr99215.pdf.

113 Guo HR, Tanaka S, Cameron LL, Seligman PJ, Behrens VJ, Ger J, Wild DK, Putz-Anderson V. 1995. Back pain among workers in the United States: national estimates and workers at high risk. Am J Ind Med. 28(5):591-602.

114 Leigh et al. op. cit.

115 California Department of Industrial Relations, Cal/OSHA Consultation Services. 2005. Working Safer and Easier: for Janitors, Custodians, and Housekeepers. Available at http://www.dir.ca.gov/dosh/dosh_publications/Janitors.pdf.

116 Blake, SM, Windsor R A, Lohrmann D K, Gay N, Ledsky R, Richman A, Jones S B, Banspach SW. 1999. Factors associated with occupational exposure and compliance with universal precautions in an urban school district. Health Educ Behav. 26(5):734-50.

117 Dun and Bradstreet Zapdata. 2004. Seewww.zapdata.com. Dun and Bradstreet is a commercial marketing database used for the purposes of sales lead generation, direct mail and telemarketing campaigns, and market research. The information is gathered from a variety of sources including direct company contact, government reports, the US Postal Service, utility companies, newspapers and other publications, and is updated quarterly.

118 Janitors can potentially work in any type of industry and it is out of the scope of this study to identify sources that would allow us to select companies from a variety of industries. SIC 7349 included only janitorial contractors.

119 These types of companies would more likely advertise by word of mouth, flyers or are subcontractors who advertise through their contractors.

120 Barron T. op. cit.

121 Cleanlink. 2004. Report on the Building Service Contractor Market. Trade Press Publishing Corporation. Available at http://www.cleanlink.com.

122 Green Seal is an independent, non-profit organization that strives to achieve a healthier and cleaner environment by identifying and promoting products and services that cause less toxic pollution and waste, conserve resources and habitats, and minimize global warming and ozone depletion. Website: http://www.greenseal.org.

123 California Office of Statewide Health Planning and Development. 2002. Primary Care Clinics Annual Utilization Statewide Trends, 1991 – 2000. Available at http://www.oshpd.cahwnet.gov/HQAD/HIRC/clinic/util/PCTrends/index.htm.

124 California Association of Public Hospitals and Health Systems. 2005. Fast Facts. 70 Washington Street, Suite 310, Oakland, California 94607. Available at www.caph.org/fastfacts.htm.

125 California Primary Care Association. (Viewed 2005) Fact Sheet: Community-Based Clinics and Health Centers,1215 K Street, Suite 700, Sacramento, CA 95814.

126 Teran S, Baker R, Sum J. 2002. Improving Health and Safety Conditions for California's Immigrant Workers, Report and Recommendations of the California Working Immigrant Safety and Health (WISH) Coalition. University of California Berkeley, Labor Occupational Health Program. Available at: http://ist-socrates.berkeley.edu/~lohp/graphics/pdf/wishrept.pdf.

127 Brown MP, Domenzain A, Villoria-Siegert. 2002. Voices from the Margins: Immigrant Workers' Perceptions of Health and Safety in the Workplace," University of California Los Angeles Labor Occupational Safety and Health program. Available at:http://www.losh.ucla.edu.

128 Day Labor Contingent Work Committee and National Campaign for Jobs and Income Support. 2002. Permanent Struggle, Temporary Solution: Contracting Out America. Center for Community Change, 1000 Wisconsin Ave NW Washington, DC 20007.

129 WORKSAFE!. 1999. California Workers at Risk: A Call for Action. c/o San Francisco Labor Council,1188 Franklin Street, San Francisco, CA 94109. Available at: http://www.worksafe.org/pdfs/1999CallActFinal.pdf.

130 U.S. Department of Labor. 2002. Labor Secretary Elaine L. Chao Announces Increased Compliance in Garment Industry Compliance Assistance Seen As Effective Tool To Improve Working Conditions. Press Release, 3/28/2002.

131 Brown A. 2003. Insurance Reform: How to Fix Worker's Comp. San Francisco Chronicle. August 10, 2003.

132 Brown MP, Domenzain A and Villoria-Siegert. 2002. Health and Safety Policy Brief: California's Immigrant Workers Speak Up About Health and Safety in the Workplace," UNIVERSITY OF California Los Angeles Labor Occupational Safety and Health program. Available at:http://www.losh.ucla.edu.

133 See: https://www.txcomp.twcc.state.tx.us/twccprovidersolution/emprsrhglbhtml.